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COMMITTEE ON FOREIGN AFFAIRS

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FOREWORD

This volume of legislation and related material is part of a five volume set of laws and related material frequently referred to by the Committees on Foreign Relations of the Senate and Foreign Affairs of the House of Representatives, amended to date and annotated to show pertinent history or cross references.

Volumes I, II, III and IV contain legislation and related material and are republished with amendments and additions at the end of each annual session of Congress. Volume V which contains treaties and related material will not be revised every year, but only as necessary.

We wish to express our appreciation to Dianne E. Rennack of the Foreign Affairs and National Defense Division of the Congressional Research Service of the Library of Congress who prepared volume II of this year's compilation.

CLAIBORNE PELL,
Chairman, Committee on Foreign Relations.
DANTE B. FASCELL,
Chairman, Committee on Foreign Affairs.

EXPLANATORY NOTE

All public laws included in this volume, except as noted below, are codified and in force through the end of the 100th Congress. The texts of the public laws in this volume are printed as they appear in the United States Statutes at Large rather than the United States Code. Amendments are incorporated into the text and distinguished by a footnote.

All Executive orders and State Department delegations of authority are codified and in force as of January 31, 1989.

ABBREVIATIONS

Bevans	Treaties and Other International Agreements of the United States of America, 1776–1949, compiled under the direction of Charles I. Bevans.
CFR	Code of Federal Regulations.
EAS	Executive Agreement Series.
F.R	Federal Register.
LNTS	League of Nations Treaty Series.
I Malloy, II Malloy	Treaties, Conventions, International Acts, Protocols, and Agreements Between the United States of America and Other Powers, 1776–1909, compiled under the direction of the United States Senate by William M. Malloy.
Stat	United States Statutes at Large.
TIAS	Treaties and Other International Acts Series.
TS	Treaty Series.
UNTS	United Nations Treaty Series.
U.S.C	United States Code.
UST	United States Treaties and Other International Agreements.

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> NOTE.—Sections in this Act amend other State Department and foreign relations legislation and are incorporated elsewhere in this compilation.

AN ACT To authorize appropriations for fiscal years 1988 and 1989 for the Department of State, the United States Information Agency, the Voice of America, the Board for International Broadcasting, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1.[1] SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Foreign Relations Authorization Act, Fiscal Years 1988 and 1989".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

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TITLE I—THE DEPARTMENT OF STATE

PART A—AUTHORIZATION OF APPROPRIATIONS; ALLOCATIONS OF FUNDS; RESTRICTIONS

SEC. 101. ADMINISTRATION OF FOREIGN AFFAIRS.

(a) DIPLOMATIC AND ONGOING OPERATIONS.—The following amounts are authorized to be appropriated under "Administration of Foreign Affairs" for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States:

(1) [2] For "Salaries and Expenses" of the Department of State (other than the Diplomatic Security Program), $1,431,908,000 for the fiscal year 1988 and $1,460,546,000 for the fiscal year 1989, of which not less than $250,000 for each fiscal year shall be available only for use by the Bureau of International Communications and Information Policy to support international institutional development and other activities which promote international communications and information development.

(2) [3] For "Acquisition and Maintenance of Buildings Abroad" (other than the Diplomatic Security Program), $313,124,000 for the fiscal year 1988 and $319,386,000 for the fiscal year 1989.

(3) [4] For "Representation Allowances", $4,460,000 for the fiscal year 1988 and $4,549,000 for the fiscal year 1989.

(4) [5] For "Emergencies in the Diplomatic and Consular Service", $4,000,000 for the fiscal year 1988 and $4,080,000 for the fiscal year 1989.

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[2] The Department of State Appropriation Act, 1988 (sec. 101(a), title III, of the Continuing Appropriations for 1988, Public Law 100-202) provided the following for "Salaries and Expenses": $1,694,000,000. It further stated that none of these funds should be available for the Office of Public Diplomacy for Latin America and the Caribbean.

The Department of State Appropriations Act, 1989 (Public Law 100-459, 102 Stat. 2204) provided $1,784,000,000.

[3] The Department of State Appropriation Act, 1988 (sec. 101(a), title III, of the Continuing Appropriations for 1988, Public Law 100-202) provided the following for "Acquisition and Maintenance of Buildings Abroad": $313,100,000.

The Department of State Appropriations Act, 1989 (Public Law 100-459, 102 Stat. 2204) provided $240,021,000.

[4] The Department of State Appropriation Act, 1988 (sec. 101(a), title III, of the Continuing Appropriations for 1988, Public Law 100-202) provided the following for "Representation Allowances": $4,500,000.

The Department of State Appropriations Act, 1989 (Public Law 100-459, 102 Stat. 2204) provided $4,590.000.

[5] The Department of State Appropriation Act, 1988 (sec. 101(a), title III, of the Continuing Appropriations for 1988, Public Law 100-202) provided the following for "Emergencies in the Diplomatic and Consular Service": $4,000.000.

The Department of State Appropriations Act, 1989 (Public Law 100-459, 102 Stat. 2204) provided $4,500,000.

(5)[6] For "Payment to the American Institute in Taiwan", $9,379,000 for the fiscal year 1988 and $9,567,000 for the fiscal year 1989.

(b) DIPLOMATIC SECURITY PROGRAM.—In addition to amounts authorized to be appropriated by subsection (a), the following amounts are authorized to be appropriated under "Administration of Foreign Affairs" for the Department of State to carry out the diplomatic security program:

(1) For "Salaries and Expenses", $350,000,000 for the fiscal year 1988 and $357,000,000 for the fiscal year 1989.

(2)[7] For "Protection of Foreign Missions and Officials", $9,100,000 for the fiscal year 1988 and $9,282,000 for the fiscal year 1989.

* * * * * * *

SEC. 102. CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS AND CONFERENCES; INTERNATIONAL PEACEKEEPING ACTIVITIES.

(a)[8] INTERNATIONAL ORGANIZATIONS.—There are authorized to be appropriated to the Department of State under "Contributions to International Organizations", $571,000,000 for the fiscal year 1988 and $582,420,000 for the fiscal year 1989 in order to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to international organizations, of which amount—

(1)[9] $193,188,000 for the fiscal year 1988 and $193,188,000 for the fiscal year 1989 shall be available only for the United States assessed contribution to the United Nations;

(2)[9] $63,857,000 for the fiscal year 1988 and $63,857,000 for the fiscal year 1989 shall be available only for the United States assessed contribution to the World Health Organization;

(3)[9] $31,443,000 for the fiscal year 1988 and $31,443,000 for the fiscal year 1989 shall be available only for the United States assessed contribution to the International Atomic Energy Agency;

(4)[9] $44,915,000 for the fiscal year 1988 and $44,915,000 for the fiscal year 1989 shall be available only for the United States assessed contribution to the Organization of American States;

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[6] The Department of State Appropriation Act, 1988 (sec. 101(a), title III, of the Continuing Appropriations for 1988, Public Law 100-202) provided the following for "Payment to the American Institute in Taiwan": $11,000,000.

The Department of State Appropriations Act, 1989 (Public Law 100-459, 102 Stat. 2204) provided $10,890,000.

[7] The Department of State Appropriation Act, 1988 (sec. 101(a), title III, of the Continuing Appropriations for 1988, Public Law 100-202) provided the following for "Protection of Foreign Missions and Officials": $9,000,000.

The Department of State Appropriations Act, 1989 (Public Law 100-459, 102 Stat. 2204) provided $9,100,000.

[8] The Department of State Appropriation Act, 1988 (sec. 101(a), title III, of the Continuing Appropriations for 1988, Public Law 100-202) provided the following for "Contributions to International Organizations": $480,000,000.

The Department of State Appropriations Act, 1989 (Public Law 100-459, 102 Stat. 2204) provided $485,940,000.

[9] In making appropriations for fiscal year 1988, the Department of State Appropriation Act, 1988 (sec. 101(a) of the Continuing Appropriations for 1988, Public Law 100-202, 101 Stat. 1329) waived sec. 102(a)(1) through (11). These sections were waived for fiscal year 1989 by title III of the Department of State Appropriations Act, 1989 (Public Law 100-459, 102 Stat. 2204).

(5) [9] $38,659,000 for the fiscal year 1988 and $38,659,000 for the fiscal year 1989 shall be available only for the United States assessed contribution to the Pan-American Health Organization;

(6) [9] $7,849,000 for the fiscal year 1988 and $7,849,000 for the fiscal year 1989 shall be available only for the United States assessed contribution to the International Civil Aviation Organization;

(7) [9] $645,000 for the fiscal year 1988 and $645,000 for the fiscal year 1989 shall be available only for the United States assessed contribution to the International Maritime Organization;

(8) [9] $4,471,000 for the fiscal year 1988 and $4,471,000 for the fiscal year 1989 shall be available only for the United States assessed contribution to the International Telecommunication Union;

(9) [9] $25,110,000 for the fiscal year 1988 and $25,110,000 for the fiscal year 1989 shall be available only for the United States assessed contribution to the North Atlantic Treaty Organization;

(10) [9] $29,385,000 for the fiscal year 1988 and $29,385,000 for the fiscal year 1989 shall be available only for the United States assessed contribution to the Organization for Economic Cooperation and Development; and

(11) [9] $388,000 for the fiscal year 1988 and $388,000 for the fiscal year 1989 shall be available only for the United States assessed contribution to the International Wheat Council.

(b) [10] INTERNATIONAL PEACEKEEPING ACTIVITIES.—There are authorized to be appropriated to the Department of State under "Contributions to International Peacekeeping Activities", $29,400,000 for fiscal year 1988 and $29,988,000 for the fiscal year 1989 in order to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to international peacekeeping activities.

(c) [11] INTERNATIONAL CONFERENCES AND CONTINGENCIES.—There are authorized to be appropriated to the Department of State under "International Conferences and Contingencies", $6,000,000 for fiscal year 1988 and $6,120,000 for the fiscal year 1989 in order to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to international conferences and contingencies, of which amount such funds as may be necessary shall be available for the expense of hosting the 1987 General Assembly of the Organization of American States.

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[10] The Department of State Appropriation Act, 1988 (sec. 101(a), title III, of the Continuing Appropriations for 1988, Public Law 100-202) provided the following for "International Peacekeeping Activities": $29,400,000.

The Department of State Appropriations Act, 1989 (Public Law 100-459, 102 Stat. 2204) provided $29,000,000.

[11] The Department of State Appropriation Act, 1988 (sec. 101(a), title III, of the Continuing Appropriations for 1988, Public Law 100-202) provided the following for "International Conferences and Contingencies": $6,000,000.

The Department of State Appropriations Act, 1989 (Public Law 100-459, 102 Stat. 2204) provided $6,000,000.

SEC. 103. INTERNATIONAL COMMISSIONS.

The following amounts are authorized to be appropriated under "International Commissions" for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to international commissions:

(1) [12] For "International Boundary and Water Commission, United States and Mexico", $14,700,000 for the fiscal year 1988 and $14,994,000 for the fiscal year 1989.

(2) [13] For "International Boundary Commission, United States and Canada", $721,000 for the fiscal year 1988 and $735,000 for the fiscal year 1989.

(3) [13] For "International Joint Commission", $2,979,000 for the fiscal year 1988 and $3,039,000 for the fiscal year 1989.

(4) [14] For "International Fisheries Commissions", $10,800,000 for the fiscal year 1988 and $11,016,000 for the fiscal year 1989.

SEC. 104. MIGRATION AND REFUGEE ASSISTANCE.

(a) [15] AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of State under "Migration and Refugee Assistance", $336,750,000 for the fiscal year 1988 and $343,485,000 for the fiscal year 1989 in order to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to migration and refugee assistance.

(b) ALLOCATION OF FUNDS.—Of the amounts authorized to be appropriated by subsection (a)—

(1) $25,000,000 for the fiscal year 1988 and $25,000,000 for the fiscal year 1989 shall be available only for assistance for refugees resettling in Israel; and

(2) $5,000,000 for the fiscal year 1988 and $5,000,000 for the fiscal year 1989 shall be available only for the United Nations

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[12] The Department of State Appropriation Act, 1988 (sec. 101(a), title III, of the Continuing Appropriations for 1988, Public Law 100-202) provided the following for "International Boundary and Water Commission, United States and Mexico": salaries and expenses—$10,261,000; construction—$3,166,000.

The Department of State Appropriations Act, 1989 (Public Law 100-459, 102 Stat. 2204) provided for salaries and expenses—$10,261,000; construction—$3,166,000.

[13] The Department of State Appropriation Act, 1988 (sec. 101(a), title III, of the Continuing Appropriations for 1988, Public Law 100-202) provided the following for the "International Joint Commission" and the "International Boundary Commission": $4,316,000.

The Department of State Appropriations Act, 1989 (Public Law 100-459, 102 Stat. 2204) provided $4,316,000.

[14] The Department of State Appropriation Act, 1988 (sec. 101(a), title III, of the Continuing Appropriations for 1988, Public Law 100-202) provided the following for "International Fisheries Commissions": $10,548,000.

The Department of State Appropriations Act, 1989 (Public Law 100-459, 102 Stat. 2204) provided $10,548,000.

[15] The Foreign Operations, Export Financing and Related Programs Appropriations Act, 1988 (sec. 101(e), title III, of the Continuing Appropriations for 1988, Public Law 100-202) provided the following for "Migration and Refugee Assistance": $346,450,000, earmarked for several specific programs. The Dire Emergency Supplemental Appropriations Act, 1988 (Public Law 100-393, 102 Stat. 973) provided $24,000,000 for the "United States Emergency Migration and Refugee Assistance Fund", not less than $6,000,000 of which was earmarked for Soviet and other Eastern European refugees.

The Foreign Operations, Export Financing and Related Programs Appropriations Act, 1989 (Public Law 100-461, 102 Stat. 2268-14) provided $361,950,000 for "Migration and Refugee Assistance", earmarked for several specific programs. For text, see vol. I, page 529. Public Law 100-461 also provided $50,000,000 for the "United States Emergency Refugee and Migration Assistance Fund", not less than $23,000,000 of which was earmarked for Afghan refugees. For text, see vol. I, page 530.

High Commissioner for Refugees and other international relief organizations for the protection of, and improvements in educational, nutritional, and medical assistance for, the Indochinese refugees in Thailand, of which $1,000,000 for the fiscal year 1988 and $1,000,000 for the fiscal year 1989 shall be used only for such educational purposes.

SEC. 105. [16] OTHER PROGRAMS.

There are authorized to be appropriated to the Department of State for the following programs:

(1) [17] "Bilateral Science and Technology Agreements", $1,900,000 for the fiscal year 1988 and $1,938,000 for the fiscal year 1989.

(2) [18] "Soviet-East European Research and Training", $4,600,000 for the fiscal year 1988 and $5,000,000 for the fiscal year 1989.

SEC. 106. REDUCTION IN EARMARKS IF APPROPRIATIONS ARE LESS THAN AUTHORIZATIONS.

If the amount appropriated for a fiscal year pursuant to any authorization of appropriations provided by this Act is less than the authorization amount and a provision of this Act provides that a specified amount of the authorization amount shall be available only for a certain purpose, then the amount so specified shall be deemed to be reduced for that fiscal year to the amount which bears the same ratio to the specified amount as the amount appropriated bears to the authorization amount.

SEC. 107. TRANSFER OF FUNDS.

(a) TRANSFERS FOR SALARIES AND EXPENSES.—The Secretary of State may transfer, without regard to section 1502 of title 31, United States Code, to the "Salaries and Expenses" account of the Department of State amounts appropriated for any fiscal year prior to fiscal year 1989 under "Acquisition and Maintenance of Buildings Abroad" which are allocated for capital programs. Any transfer under this subsection shall be treated as a reprogramming for purposes of section 34 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2706).

(b) LIMITATIONS.—

(1) Subsection (a) shall not apply to amounts appropriated for purposes of the diplomatic security program under section 401(a) of the Diplomatic Security Act (22 U.S.C. 4851).

(2) The aggregate of—

(A) the amounts transferred under this section for a fiscal year, and

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[16] The Department of State Appropriations Act, 1989 (Public Law 100–459, 102 Stat. 2204) provided for the programs listed here, and for "Payment to the Asia Foundation": $13,700,000; and for the "Fishermen's Guaranty Fund": $1,725,000.

[17] The Department of State Appropriation Act, 1988 (sec. 101(a), title III, of the Continuing Appropriations for 1988, Public Law 100–202) provided the following for "Bilateral Science and Technology Agreements": $1,900,000.

The Department of State Appropriations Act, 1989 (Public Law 100–459, 102 Stat. 2204) provided $2,000,000.

[18] The Department of State Appropriation Act, 1988 (sec. 101(a), title III, of the Continuing Appropriations for 1988, Public Law 100–202) provided the following for "Soviet-East European Research and Training": $4,600,000.

The Department of State Appropriations Act, 1989 (Public Law 100–459, 102 Stat. 2204) provided $4,600,000.

(B) the amounts appropriated for "Salaries and Expenses" for that fiscal year,

may not exceed the amount authorized to be appropriated for "Salaries and Expenses" for that fiscal year.

(3) The authority contained in subsection (a) may be exercised only to such extent or in such amounts as are provided in advance in appropriation Acts.

SEC. 108. COMPLIANCE WITH PRESIDENTIAL-CONGRESSIONAL SUMMIT AGREEMENT ON DEFICIT REDUCTION.

Notwithstanding the specific authorizations of appropriations contained in this Act, budget authority may not be provided pursuant to those authorizations in an amount which would cause the aggregate amount of discretionary budget authority provided for international affairs (budget function 150) for a fiscal year to exceed the amount of discretionary budget authority for international affairs for that fiscal year as specified in laws implementing the agreement between the President and the joint Congressional leadership on November 20, 1987.

SEC. 109. PROHIBITION ON USE OF FUNDS FOR POLITICAL PURPOSES.

No funds authorized to be appropriated by this Act or by any other Act authorizing funds for any entity engaged in any activity concerning the foreign affairs of the United States shall be used—

(1) for publicity or propaganda purposes designed to support or defeat legislation pending before Congress;

(2) to influence in any way the outcome of a political election in the United States; or

(3) for any publicity or propaganda purposes not authorized by Congress.

SEC. 110.[19] LATIN AMERICAN AND CARIBBEAN DATA BASES.

(a) AUTHORIZATION.—The Secretary of State, in consultation with the heads of appropriate departments and agencies of the United States, shall use not less than $1,300,000 of the funds authorized to be appropriated for each of the fiscal years 1988 and 1989 by section 101(a)(1) of this Act to provide for the establishment of a Latin American and Caribbean Data Base.

(b) CONDITIONS.—In developing these data bases the Secretary of State shall be required to satisfy the following conditions:

(1) Any new agreement for an on-line bibliographic data base entered into for purposes of this section shall be subject to full and open competition or merit review among qualified United States institutions with strong Latin American and Caribbean programs.

(2) The Secretary shall ensure that funds are not awarded to maintain services which are significantly duplicative of existing services.

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[19] In appropriating funds for "Salaries and Expenses", the Department of State Appropriation Act, 1988 (sec. 101(a) of the Continuing Appropriations for 1988, Public Law 100-202, 101 Stat. 1329), and the Department of State Appropriations Act, 1989 (Public Law 100-459, 102 Stat. 2204), waived sec. 110 for fiscal years 1988 and 1989.

PART B—DEPARTMENT OF STATE AUTHORITIES AND ACTIVITIES; FOREIGN MISSIONS

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SEC. 122.[20] CONSULAR AND DIPLOMATIC POSTS ABROAD.

(a) PROHIBITED USES OF FUNDS.—

(1) CLOSING POSTS.—No funds authorized to be appropriated by this or any other Act shall be available to pay any expense related to the closing of any United States consular or diplomatic post abroad.

(2) FUNDING FOR BUREAU OF ADMINISTRATION IF POSTS CLOSED.—No funds authorized to be appropriated by this Act shall be used to pay for any expense related to the Bureau of Administration of the Department of State (or to carrying out any of its functions) if any United States consular or diplomatic post is closed after January 1, 1987, and is not reopened.

(b) FUNDS FOR OPERATING CERTAIN CONSULATES.—

(1) ALLOCATION.—Of the funds authorized to be appropriated by section 101(a)(1) for "Salaries and Expenses", not less than $50,000,000 for each of the fiscal years 1988 and 1989 shall be available only to operate United States consulates in Salzburg, Strasbourg, Goteborg, Lyon, Dusseldorf, Tangier, Genoa, Nice, Porto Alegre, and Maracaibo.

(2) EXCESS FUNDS.—Funds allocated by paragraph (1) which are in excess of the amount needed to operate the consulates specified in that paragraph may be used for other purposes under "Administration of Foreign Affairs" if all the specified consulates are open and functioning.

(c) EXCEPTIONS.—Subsection (a) does not apply with respect to—

(1) any post closed after January 1, 1987, and before the date of enactment of this Act if the host government will not allow that post to be reopened;

(2) any post closed because of a break or downgrading of diplomatic relations between the United States and the country in which the post is located;

(3) any post closed because there is a real and present threat to United States diplomatic or consular personnel in the city where the post is located, and a travel advisory warning against American travel to that city has been issued by the Department of State;

(4) any post closed in order to provide funds to open a new consular or diplomatic post which will be staffed by the Department of State on a full-time basis with at least one Foreign Service officer or member of the Senior Foreign Service, if the Secretary of State, prior to the closing of the post, prepares and transmits to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives a report stating that—

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[20] 22 U.S.C. 2656 note. Sec. 122 was waived during fiscal years 1988 and 1989 by sec. 305 of the Department of State Appropriation Act, 1988 (sec. 101(a), title III, of the Continuing Appropriations for 1988, Public Law 100-202). In appropriating funds for "Salaries and Expenses", the same Act waived sec. 122 for fiscal year 1988.

(A) the new post is a higher priority than the post proposed to be closed; and

(B) the total number of consular and diplomatic posts abroad is not less than the number of such posts in existence on January 1, 1987 (excluding the posts exempted under paragraphs (1) through (4)); and

(5) the post closed pursuant to section 123.

(d) SEQUESTRATION.—In the case that a sequestration order is issued pursuant to Part C of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 *et seq.*, Public Law 99-177), the Secretary of State may, as part of an agencywide austerity proposal, submit a report proposing a list of consular posts to be downgraded or closed in order to comply with the sequestration order, together with a justification for the inclusion of each post on such list. Such report shall be submitted to the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives.

(e) DEFINITION.—As used in this section, the term "consular or diplomatic post" does not include a post to which only personnel of agencies other than the Department of State are assigned.

(f) EFFECTIVE DATE.—Subsection (a) shall take effect 180 days after the date of enactment of this Act.

SEC. 123.[21] CLOSING OF DIPLOMATIC AND CONSULAR POSTS IN ANTIGUA AND BARBUDA.

(a) PROHIBITION ON USE OF FUNDS.—None of the funds made available for the Department of State for any fiscal year may be used for the expenses of maintaining a United States diplomatic or consular post in Antigua and Barbuda.

(b) EFFECTIVE DATE.—The prohibition contained in subsection (a) shall take effect 60 days after the date of enactment of this Act unless the President determines that closing this post would not be in the national security interests of the United States and informs the Chairman of the Committee on Foreign Relations of the Senate and the Chairman of the Committee on Foreign Affairs of the House of Representatives of such determination.

SEC. 124.[22] REPORT ON EXPENDITURES MADE FROM APPROPRIATION FOR EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE.

The Secretary of State shall provide to the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives within 30 days after the end of each quarter of the fiscal year a complete report, including amount, payee, and purpose, of all expenditures made from the appropriation for "Emergencies in the Diplomatic and Consular Service" for that quarter.

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[21] 22 U.S.C. 2656 note.

[22] 22 U.S.C. 2680 note.

SEC. 127.[23] * * *

SEC. 128. LIMITATION ON THE USE OF A FOREIGN MISSION IN A MANNER INCOMPATIBLE WITH ITS STATUS AS A FOREIGN MISSION.

(a)[24] * * *

(b) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to any foreign mission beginning on the date of enactment of this Act.

(2)(A) The amendment made by subsection (a) shall apply beginning 6 months after the date of enactment of this Act with respect to any nonimmigrant alien who is using a foreign mission as a residence or a place of business on the date of enactment of this Act.

(B) The Secretary of State may delay the effective date provided for in subparagraph (A) for not more than 6 months with respect to any nonimmigrant alien if the Secretary finds that a hardship to that alien would result from the implementation of subsection (a).

SEC. 129. ALLOCATION OF SHARED COSTS AT MISSIONS ABROAD.

In order to provide for full reimbursement of shared administrative costs at United States missions abroad, the Secretary of State shall review, and revise if necessary, the allocation procedures under which agencies reimburse the Department of State for shared administrative costs at United States missions abroad. Within 3 months after the date of enactment of this Act, the Secretary of State shall submit a report to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate on such review and any revision.

SEC. 130.[25] PROHIBITION ON THE USE OF FUNDS FOR FACILITIES IN ISRAEL, JERUSALEM, OR THE WEST BANK.

None of the funds authorized to be appropriated by this title may be obligated or expended for site acquisition, development, or construction of any new facility in Israel, Jerusalem, or the West Bank.

SEC. 131. PURCHASING AND LEASING OF RESIDENCES.

It is the sense of the Congress that in its fiscal year 1989 budget presentations to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives, the Department of State shall provide sufficient information on the advantages and disadvantages of purchasing rather than leasing residential properties to enable the Congress to determine the specific amount of savings that would or would not be achieved by purchasing such properties. The Department also shall make recommendations to the Congress on the purchasing and leasing of such properties.

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[23] Sec. 127 amended sec. 116(d) and 502B(b) of the Foreign Assistance Act of 1961 to require the inclusion of coercive population control information in the annual human rights report.

[24] Sec. 128(a) added a new sec. 215 to the State Basic Authorities Act of 1956. For text, see page 246.

[25] Sec. 305 of the Department of State Appropriations Act, 1989 (Public Law 100–459, 102 Stat. 2208) waived sec. 414 of the Diplomatic Security Act (see page 482), and provided the following: "such funds * * * may be hereafter obligated or expended for site acquisition, development, and construction of two new diplomatic facilities in Israel, Jerusalem, or the West Bank, provided that each facility (A) equally preserves the ability of the United States to locate its Ambassador or its Consul General at that site, consistent with United states policy; (B) shall note be denominated as the United States Embassy or Consulate until after construction of both facilities has begun, and construction of one facility has been completed, or is near completion; and (C) unless security considerations require otherwise, commences operation simultaneously."

SEC. 132.[26] PROHIBITION ON ACQUISITION OF HOUSE FOR SECRETARY OF STATE

The Department of State shall not solicit or receive funds for the construction, purchase, lease or rental of, nor any gift or bequest of real property or any other property for the purpose of providing living quarters for the Secretary of State.

SEC. 133.[27] UNITED STATES DEPARTMENT OF STATE FREEDOM OF EXPRESSION.

(a) FINDING.—Congress finds that the United States Department of State, on September 15, 1987, declared itself to be a temporary foreign diplomatic mission for the purpose of denying free speech to American citizens who planned to protest the tyranny of the Soviet regime.

(b) PROHIBITION.—It is not in the national security interest of the United States for the Department of State to declare, and it shall not declare, itself to be a foreign diplomatic mission.

SEC. 134.[28] * * *

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SEC. 137. STUDY AND REPORT CONCERNING THE STATUS OF INDIVIDUALS WITH DIPLOMATIC IMMUNITY IN THE UNITED STATES.

(a) STUDY.—The Secretary shall undertake a study of the minimum liability insurance coverage required for members of foreign missions and their families and the feasibility of requiring an increase in such minimum coverage. In conducting such study, the Secretary shall consult with members of the insurance industry, officials of State insurance regulatory bodies, and other experts, as appropriate. The study shall consider the following:

(1) The adequacy of the currently required insurance minimums, including the experiences of injured parties.

(2) The feasibility and projected cost of increasing the current minimum coverages to $1,000,000 or some lesser amount in the commercial insurance market, including consideration of individual umbrella policies to provide additional coverage above the current minimum.

(3) The feasibility and cost of requiring additional coverage up to $1,000,000 through a single group insurance arrangement, administered by the Department, providing umbrella coverage for the entire class of foreign officials who are immune from the jurisdiction of the United States.

(4) The consequences to United States missions abroad, including their costs of operation, that might reasonably be anticipated as a result of requiring an increase in the insurance costs of foreign missions in the United States.

(5) Any other issues and recommendations the Secretary may consider appropriate.

(b) REPORT.—The Secretary shall compile a report to the Congress concerning the problem arising from diplomatic immunity from criminal prosecution and from civil suit. The report shall set forth the background of the various issues arising from the problem, the extent of the problem, an analysis of proposed and other potential measures to address the problem (including an analysis of the costs associated with and difficulties of implementing the various proposals), consider the potential and likely impact upon United States diplomatic personnel of actions in other nations that are comparable to such proposals, and make recommendations for addressing the problem with respect to the following:

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[26] 22 U.S.C. 2697 note.

[27] 22 U.S.C. 4301 note.

[28] Sec. 134 repealed subsec. 413(b) of the Diplomatic Security Act (Public Law 99-399, 100 Stat. 853) which had established an Office of Policy and Program Review in the Department of State.

(1) The collection of debts owed by foreign missions and members of such missions and their families to individuals and entities in the United States.

(2) A detailed catalog of incidents of serious criminal offenses by persons entitled to immunity under the Vienna Convention on Diplomatic Relations and other treaties to assist in developing an understanding of the extent of the problem.

(3) The feasibility of having the Department of State develop and periodically submit to the Congress a report concerning—

(A) serious criminal offenses committed in the United States by individuals entitled to immunity from the criminal jurisdiction of the United States; and

(B) delinquency in the payment of debts owed by foreign missions and members of such missions and their families to individuals and entities in the United States.

(4) Methods for improving the education of law enforcement officials on the extent of immunity provided to members of foreign missions and their families under the Vienna Convention on Diplomatic Relations and other treaties.

(5) Proposals to assure that law enforcement officials fully investigate, charge, and institute and maintain prosecution of members of foreign missions and their families to the extent consistent with the obligations of the United States under the Vienna Convention on Diplomatic Relations and other treaties.

(6) The extent to which existing practices regarding the circumstances under which diplomatic visas under section 101(a)(15)(A) of the Immigration and Nationality Act are issued and revoked are adequate to ensure the integrity of the diplomatic visa category.

(7) The extent to which current registration and documentation requirements fully and accurately identify individuals entitled to diplomatic immunity.

(8) The extent to which the Department of State is able to identify diplomats allegedly involved in serious crimes in the United States so as to initiate their removal from the United States and the extent to which existing law may be inadequate to prevent the subsequent readmission of such individuals under nonimmigrant and immigrant categories unrelated to section 101(a)(15)(A) of the Immigration and Nationality Act.

(9) A comparison of the procedures for the issuance of visas to diplomats from foreign nations to the United States and international organizations with the procedures accorded to United States diplomats to such nations and to international organizations in such nations, and recommendations to achieve reciprocity in such procedures.

(10)(A) A review of the definition of the term "family" under the Diplomatic Relations Act.

(B) An evaluation of the effect of amendments to the term "family" on the number of persons entitled to diplomatic immunity in the United States.

(C) An evaluation of the potential effect of various amendments to the term "family" under the Diplomatic Relations Act on the number of serious criminal offenses committed in the United States by members of foreign missions and their families entitled to immunity from the criminal jurisdiction of the United States.

(11) An examination of all possible measures to prevent the use of diplomatic pouches for the illicit transportation of narcotics, explosives, or weapons.

(12) An examination of the considerations in establishing a fund for compensating the victims of crimes committed by persons entitled to immunity from criminal prosecution under the Vienna Convention on Diplomatic Relations and other treaties, including the feasibility of establishing an insurance fund financed by foreign missions.

(c) CONGRESS.—Not more than 90 days after the date of enactment of this Act, the findings and recommendations of the study under subsection (a) and the report under subsection (b) shall be submitted to the Committee on the Judiciary and the Committee on Foreign Relations of the Senate and the Committee on the Judiciary and the Committee on Foreign Affairs of the House of Representatives.

SEC. 138.[29] FEDERAL JURISDICTION OF DIRECT ACTIONS AGAINST INSURERS OF DIPLOMATIC AGENTS.

(a) PERIOD OF LIABILITY.—Section 1364 of title 28, United States Code, is amended by inserting after "who is" the following: ", or was at the time of the tortious act or omission,".

(b)[30] APPLICATION.—The amendment made by subsection (a) shall apply to the first tortious act or omission occurring after the date of enactment of this Act.

SEC. 139. ENFORCEMENT OF CASE-ZABLOCKI ACT REQUIREMENTS.

(a) RESTRICTION ON USE OF FUNDS.—If any international agreement, whose text is required to be transmitted to the Congress pursuant to the first sentence of subsection (a) of section 112b of title 1, United States Code (commonly referred to as the "Case-Zablocki Act"), is not so transmitted within the 60-day period specified in that sentence, then no funds authorized to be appropriated by this or any other Act shall be available after the end of that 60-day period to implement that agreement until the text of that agreement has been so transmitted.

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[29] The amended part of sec. 1364 of title 28, U.S.C., read as follows (with new language in brackets):

"(a) The district courts shall have original and exclusive jurisdiction, without regard to the amount in controversy, of any civil action commenced by any person against an insurer who by contract has insured an individual, who is [or was at the time of the tortious act or omission] a member of a mission (within the meaning of section 2(3) of the Diplomatic Relations Act (22 U.S.C. 254a(3))) or a member of the family of such a member of a mission, or an individual described in section 19 of the Convention on Privileges and Immunities of the United Nations of February 13, 1946, against liability for personal injury, death, or damage to property."

[30] 28 U.S.C. 1364 note.

(b) Effective Date.—Subsection (a) shall take effect 60 days after the date of enactment of this Act and shall apply during fiscal years 1988 and 1989.

SEC. 140.[31] ANNUAL COUNTRY REPORTS ON TERRORISM.

(a) Requirement of Annual Country Reports on Terrorism.—The Secretary of State shall transmit to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate, by March 31 of each year, a full and complete report providing—

(1) detailed assessments with respect to each foreign country—

(A) in which acts of international terrorism occurred which were, in the opinion of the Secretary, of major significance;

(B) about which the Congress was notified during the preceding five years pursuant to section 6(j) of the Export Administration Act of 1979; and

(C) which the Secretary determines should be the subject of such report; and

(2) all relevant information about the activities during the preceding year of any terrorist group, and any umbrella group under which such terrorist group falls, known to be responsible for the kidnapping or death of an American citizen during the preceding five years, any terrorist group known to be financed by countries about which Congress was notified during the preceding year pursuant to section 6(j) of the Export Administration Act of 1979, and any other known international terrorist group which the Secretary determines should be the subject of such report.

(b) Provisions To Be Included in Report.—The report required under subsection (a) should to the extent feasible include (but not be limited to)—

(1) with respect to subsection (a)(1)—

(A) a review of major counterterrorism efforts undertaken by countries which are the subject of such report, including, as appropriate, steps taken in international fora;

(B) the response of the judicial system of each country which is the subject of such report with respect to matters relating to terrorism affecting American citizens or facilities, or which have, in the opinion of the Secretary, a significant impact on United States counterterrorism efforts, including responses to extradition requests; and

(C) significant support, if any, for international terrorism by each country which is the subject of such report, including (but not limited to)—

(i) political and financial support;

(ii) diplomatic support through diplomatic recognition and use of the diplomatic pouch;

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[31] 22 U.S.C. 2656f.

(iii) providing sanctuary to terrorists or terrorist groups; and

(iv) the positions (including voting records) on matters relating to terrorism in the General Assembly of the United Nations and other international bodies and fora of each country which is the subject of such report; and

(2) with respect to subsection (a)(2), any—

(A) significant financial support provided by foreign governments to those groups directly, or provided in support of their activities;

(B) provisions of significant military or paramilitary training or transfer of weapons by foreign governments to those groups;

(C) provision of diplomatic recognition or privileges by foreign governments to those groups; and

(D) provision by foreign governments of sanctuary from prosecution to these groups or their members responsible for the commission, attempt, or planning of an act of international terrorism.

(c) CLASSIFICATION OF REPORT.—The report required under subsection (a) shall, to the extent practicable, be submitted in an unclassified form and may be accompanied by a classified appendix.

(d) DEFINITIONS.—As used in this section—

(1) the term "international terrorism" means terrorism involving citizens or the territory of more than 1 country;

(2) the term "terrorism" means premeditated, politically motivated violence perpetrated against noncombatant targets by subnational groups or clandestine agents; and

(3) the term "terrorist group" means any group practicing, or which has significant subgroups which practice, international terrorism.

(e) REPORTING PERIOD.—

(1) The report required under subsection (a) shall cover the events of the calendar year preceding the year in which the report is submitted.

(2) The report required by subsection (a) to be submitted by March 31, 1988, may be submitted no later than August 31, 1988.

SEC. 141. RESTRICTION ON USE OF FUNDS FOR PUBLIC DIPLOMACY EFFORTS.

(a) IN GENERAL.—Except as provided in subsection (b), none of the funds authorized to be appropriated by this Act for the Department of State may be used by the Department of State to make any contract or purchase order agreement, on or after the date of enactment of this Act, with any individual, group, organization, partnership, corporation, or other entity for the purpose of—

(1) providing advice or assistance for any program for foreign representatives of any civic, labor, business, or humanitarian group during any visit to Washington, District of Columbia, or any other location within the United States;

(2) providing contact with any refugee group or exile in Washington, District of Columbia, or elsewhere in the United

States, including the arranging of any media event, interview, or public appearance;

(3) translating articles on regions of the world and making them available for distribution to United States news organizations or public interest groups;

(4) providing points of contact for public interest groups seeking to interview exiles, refugees, or other visitors;

(5) coordinating or accompanying media visits to any region of the world;

(6) providing source material relating to regional conflicts for public diplomacy efforts;

(7) providing or presenting, in writing or orally, factual material on security considerations, refugee problems, or political dynamics of any region of the world for use on public diplomacy efforts;

(8) editing briefs or other materials for use on public diplomacy efforts;

(9) conducting special studies or projects for use on public diplomacy efforts;

(10) designing or organizing a distribution system for materials for use on public diplomacy efforts; or

(11) directing the operation of this distribution system, including—

(A) development of specialized, segmented addressee lists of persons or organizations which have solicited materials or information on any region of the world;

(B) computerization, coding, maintenance, or updating of lists;

(C) retrieval, storage, mailing, or shipping of individual or bulk packets of publications;

(D) maintenance or control of inventory or reserve stocks of materials;

(E) distribution of materials;

(F) coordinating publication production; or

(G) conducting systematic evaluations of the system.

(b) EXCEPTIONS.—

(1) Subsection (a) does not apply to any contract or purchase order agreement made, after competitive bidding, by or for the Bureau of Public Affairs of the Department of State.

(2) During fiscal years 1988 and 1989, a contract related to advocacy and policy positions may be entered into by or on behalf of the Department of State if the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate are notified not less than 15 days in advance of the proposed contract.

(c) LIMITATION ON USE OF FUNDS.—Of the funds authorized to be appropriated by this or any other Act, not more than $389,000 may be used in any fiscal year to finance the activities set forth in subsection (a).

SEC. 142. AUTHORITY TO INVEST AND RECOVER EXPENSES FROM INTERNATIONAL CLAIMS SETTLEMENT FUNDS.

(a)[32] * * *

(b)[33] AUTHORITY TO ACCEPT REIMBURSEMENTS.—The Department of State Appropriation Act of 1937 (49 Stat. 1321, 22 U.S.C. 2661) is amended under the heading entitled "INTERNATIONAL FISHERIES COMMISSION" by inserting after the fourth undesignated paragraph the following new paragraph:

"The Secretary of State is authorized to accept reimbursement from corporations, firms, and individuals for the expenses of travel, translation, printing, special experts, and other extraordinary expenses incurred in pursuing a claim on their behalf against a foreign government or other foreign entity. Such reimbursements shall be credited to the appropriation account against which the expense was initially charged.".

PART C—DIPLOMATIC RECIPROCITY AND SECURITY

SEC. 151.[34] UNITED STATES-SOVIET EMBASSY AGREEMENT; PROHIBITION ON USE OF MT. ALTO SITE. * * *

SEC. 152. RECOVERY OF DAMAGES INCURRED AS A RESULT OF SOVIET INTELLIGENCE ACTIVITIES DIRECTED AT THE NEW UNITED STATES EMBASSY IN MOSCOW.

It is the sense of the Congress that the arbitration process between the United States and the Union of Soviet Socialist Republics, which is currently under way with respect to damages arising from delays in the construction of the new United States Embassy in Moscow, should include Soviet reimbursement of the full costs incurred by the United States as a result of the intelligence activities of the Soviet Union directed at the new United States Embassy in Moscow.

SEC. 153.[35] UNITED STATES-SOVIET RECIPROCITY IN MATTERS RELATING TO EMBASSIES.

(a) REQUIREMENT FOR RECIPROCITY IN CERTAIN MATTERS.—The Secretary of State shall exercise the authority granted in title II of the State Department Basic Authorities Act of 1956 (relating to foreign missions) to obtain the full cooperation of the Soviet Government in achieving the following objectives by October 1, 1989:

(1) FINANCE.—United States diplomatic and consular posts in the Soviet Union not pay more than fair value for goods or services as a result of the Soviet Government's control over Soviet currency valuation and over the pricing of goods and services.

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[32] Sec. 142(a) amended sec. 8 of the International Claims Settlement Act of 1949 (22 U.S.C. 1621).

[33] 22 U.S.C. 2661(a) allowed the Secretary of State to charge the expense of cablegrams and telephone service to corporations, firms and individuals on whose behalf he procured information. Sec. 142(b) would authorize charging for most expenses associated with pursuing a claim against a foreign government.

[34] Sec. 151, "United States-Soviet Embassy Agreement; Prohibition on Use of Mt. Alto Site" was waived during fiscal years 1988 and 1989 by sec. 305 of the Department of State Appropriation Act, 1988 (sec. 101(a), title III, of the Continuing Appropriations for 1988, Public Law 100-202). For text of sec. 151 and other legislation regarding the Soviet embassy at Mt. Alto see page 584.

[35] 22 U.S.C. 4301 note.

(2) Access to goods and services.—United States diplomatic and consular posts in the Soviet Union have full access to goods and services, including utilities.

(3) Real property.—The real property used for office purposes, the real property used for residential purposes, and the real property used for all other purposes by United States diplomatic and consular posts in the Soviet Union is comparable in terms of quantity and quality to the real property used for each of those purposes by diplomatic and consular posts of the Soviet mission to the United States.

(b) Soviet Consulates in the United States.—The Secretary of State shall not allow the Soviet mission to the United States to occupy any new consulate in the United States until the United States mission in Kiev is able to occupy secure permanent facilities.

(c) Secretary of the Treasury.—The Secretary of the Treasury shall provide to the Secretary of State such assistance with respect to the implementation of paragraph (1) of subsection (a) as the Secretary of State may request.

(d) Reports to Congress.—Not later than 60 days after the date of enactment of this Act and annually thereafter, the Secretary of State shall submit to the Congress a report setting forth the actions taken and planned to be taken in carrying out subsection (a).

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SEC. 154. REPORT ON PERSONNEL OF SOVIET STATE TRADING ENTERPRISES.

Not later than 60 days after the date of enactment of this Act, the Secretary of State shall submit to the Congress a report discussing whether the number of personnel of Soviet state trading enterprises in the United States should be reduced.

SEC. 155.[36] PERSONNEL SECURITY PROGRAM FOR EMBASSIES IN HIGH INTELLIGENCE THREAT COUNTRIES.

(a) Special Security Program.—The Secretary of State shall develop and implement, within three months after the date of enactment of this Act, a special personnel security program for personnel of the Department of State assigned to United States diplomatic and consular posts in high intelligence threat countries who are responsible for security at those posts and for any individuals performing guard functions at those posts. Such program shall include—

(1) selection criteria and screening to ensure suitability for assignment to high intelligence threat countries;

(2) counterintelligence awareness and related training;

(3) security reporting and command arrangements designed to counter intelligence threats; and

(4) length of duty criteria and policies regarding rest and recuperative absences.

(b) Report to Congress.—Not later than 6 months after the date of enactment of this subsection, the Secretary of State shall report to the Congress on the special personnel security program required by subsection (a).

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[36] 22 U.S.C. 4802 note.

(c) DEFINITION.—As used in subsection (a), the term "high intelligence threat country" means—

(1) a country listed as a Communist country in section 620(f) of the Foreign Assistance Act of 1961; and

(2) any other country designated as a high intelligence threat country for purposes of this section by the Secretary of State, the Secretary of Defense, the Director of Central Intelligence, or the Director of the Federal Bureau of Investigation.

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SEC. 157.[37] PROHIBITION ON CERTAIN EMPLOYMENT AT UNITED STATES DIPLOMATIC AND CONSULAR MISSIONS IN COMMUNIST COUNTRIES.

(a) PROHIBITION.—After September 30, 1990, no national of a Communist country may be employed as a foreign national employee in any area of a United States diplomatic or consular facility in any Communist country where classified materials are maintained.

(b) DEFINITION.—As used in this section, the term "Communist country" means a country listed in section 620(f) of the Foreign Assistance Act of 1961.

(c) ADDITIONAL FUNDS FOR HIRING UNITED STATES CITIZENS.—The Congress expresses its willingness to provide additional funds to the Department of State for the expenses of employing United States nationals to replace the individuals dismissed by reason of subsection (a).

(d) REPORT AND REQUEST FOR FUNDS.—As a part of the Department of State's authorization request for fiscal years 1990 and 1991, the Secretary of State, in consultation with the heads of all relevant agencies, shall submit—

(1) a report, which shall include—

(A) a feasibility study of the implementation of this section; and

(B) an analysis of the impact of the implementation of this section on the budget of the Department of State; and

(2) a request for funds necessary for the implementation of this section pursuant to the findings and conclusions specified in the report under paragraph (1).

(e) WAIVER.—The President may waive this section—

(1) if funds are not specifically authorized and appropriated to carry out this section; or

(2) the President determines that it is in the national security interest of the United States to continue to employ foreign service nationals.

The President shall notify the appropriate committees of Congress each time he makes the waiver conferred on him by this section.

SEC. 158.[38] TERMINATION OF RETIREMENT BENEFITS FOR FOREIGN NATIONAL EMPLOYEES ENGAGING IN HOSTILE INTELLIGENCE ACTIVITIES.

(a) TERMINATION.—The Secretary of State shall exercise the authorities available to him to ensure that the United States does not provide, directly or indirectly, any retirement benefits of any kind to any present or former foreign national employee of a United States diplomatic or consular post against whom the Secretary has convincing evidence that such employee has engaged in intelligence activities directed against the United States. To the extent practicable, the Secretary shall provide due process in implementing this section.

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[37] 22 U.S.C. 3943 note.

[38] 22 U.S.C. 4041 note.

(b) WAIVER.—The Secretary of State may waive the applicability of subsection (a) on a case-by-case basis with respect to an employee if he determines that it is vital to the national security of the United States to do so and he reports such waiver to the appropriate committees of the Congress.

SEC. 159. REPORT ON EMPLOYMENT OF FOREIGN NATIONALS AT FOREIGN SERVICE POSTS ABROAD.

Not later than 6 months after the date of enactment of this Act, the Secretary of State, in consultation with the Secretary of Commerce, the Secretary of Agriculture, the Director of Central Intelligence, the Director of the United States Information Agency, and the Director of the Peace Corps, shall submit to the Congress a report discussing the advisability of employing foreign nationals at foreign service posts abroad (including their access to automatic data processing systems and networks).

SEC. 160.[39] CONSTRUCTION SECURITY CERTIFICATION.

(a) CERTIFICATION.—Before undertaking any new construction or major renovation project in any foreign facility intended for the storage of classified materials or the conduct of classified activities, the Secretary of State, after consultation with the Director of Central Intelligence, shall certify to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate that—

(1) appropriate and adequate steps have been taken to ensure the security of the construction project (including an evaluation of how all security-related factors with respect to such project are being addressed); and

(2) the facility resulting from such project incorporates—

(A) adequate measures for protecting classified information and national security-related activities; and

(B) adequate protection for the personnel working in the diplomatic facility.

(b) AVAILABILITY OF DOCUMENTATION.—All documentation with respect to a certification referred to in subsection (a) and any dissenting views thereto shall be available, in an appropriately classified form, to the Chairman of the Committee on Foreign Affairs of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate.

(c) DIRECTOR OF CENTRAL INTELLIGENCE.—The Director of Central Intelligence shall provide to the Secretary of State such assistance with respect to the implementation of this section as the Secretary of State may request.

(d) DISSENTING VIEWS.—If the Director of Central Intelligence disagrees with the Secretary of State with respect to any project certification made pursuant to subsection (a), the Director shall submit in writing disagreeing views to the Secretary of State.

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[39] 22 U.S.C. 4851 note.

SEC. 161.[40] * * *

SEC. 162. APPLICATION OF TRAVEL RESTRICTIONS TO PERSONNEL OF CERTAIN COUNTRIES AND ORGANIZATIONS.

(a)[41] * * *

(b) EFFECTIVE DATE.—Subsection (a) of the section enacted by this section shall take effect 90 days after the date of enactment of this Act.

SEC. 163. COUNTERINTELLIGENCE POLYGRAPH SCREENING OF DIPLOMATIC SECURITY SERVICE PERSONNEL.

(a) IMPLEMENTATION OF PROGRAM.—Under the regulations issued pursuant to subsection (b), the Secretary of State shall implement a program of counterintelligence polygraph examinations for members of the Diplomatic Security Service (established pursuant to title II of the Diplomatic Security Act) during fiscal years 1988 and 1989.

(b) REGULATIONS.—The Secretary of State shall issue regulations to govern the program required by subsection (a). Such regulations shall provide that the scope of the examinations under such program, the conduct of such examinations, and the rights of individuals subject to such examinations shall be the same as those under the counterintelligence polygraph program conducted pursuant to section 1221 of the Department of Defense Authorization Act, 1986 (Public Law 99-145).

SEC. 164. UNITED STATES EMBASSY IN HUNGARY.

(a) FINDINGS.—The Congress finds that—

(1) the full implementation of the security program of a United States diplomatic mission to a Communist country cannot be accomplished if employees of that mission who are citizens of the host country are present in the same facilities where diplomatic and consular activities of a sensitive nature are performed;

(2) the facilities currently housing the offices of the United States diplomatic mission to Hungary are totally inadequate for the proper conduct of United States diplomatic activities, and unnecessarily expose United States personnel and their activities to the scrutiny of the intelligence services of the Government of Hungary;

(3) the presence of local citizens in a facility where sensitive activities are performed, as well as their access to certain unclassified administrative information, greatly enhances the ability of the host government's intelligence services to restrict our diplomatic activities in that country;

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[40] Sec. 161 added a new subsec. (d) at sec. 205 of the State Department Basic Authorities Act of 1956 (Public Law 84-885, 70 Stat. 890). It prohibited the acquisition of real property in the United States by certain foreign countries if it is determined that such acquisition would improve capabilities for hostile intelligence activities against the United States. For text, see page 238.

[41] Subsec. (a) added a new sec. 216 to the State Department Basic Authorities Act of 1956 (Public Law 84-885, 70 Stat. 890). It applied to individuals of certain countries and organizations the same generally applicable restrictions to travel while in the United States that apply to members of the missions of the Soviet Union in the United States.

(4) since the United States Government owns a substantial amount of property in Budapest, it is in a unique position to build new facilities which will substantially enhance the security of the United States diplomatic mission to Hungary; and

(5) units such as the Navy Construction Battalion are uniquely qualified to construct such facilities in an eastern bloc country.

(b) STATEMENT OF POLICY.—It is the sense of the Congress that—

(1) the Department of State should proceed in a timely fashion to negotiate an agreement with the Government of Hungary to allow for the construction of new chancery facilities in Budapest which would totally segregate sensitive activities from those of an unclassified and public-oriented character; and

(2) any such agreement should ensure that the United States Government will have the right to employ only American construction personnel and materials and will have complete control over access to the chancery site from the inception of construction.

PART D—PERSONNEL MATTERS

SEC. 171. COMMISSION TO STUDY FOREIGN SERVICE PERSONNEL SYSTEM.

In consultation with the Committee on Foreign Relations of the Senate, the Committee on Foreign Affairs and the Committee on Post Office and Civil Service of the House of Representatives, and the exclusive representatives (as defined in section 1002(9) of the Foreign Service Act of 1980), the Secretary shall appoint a commission of five distinguished members, at least four of whom shall have a minimum of ten years experience in personnel management. The Commission shall conduct a study of the Foreign Service personnel system, with a view toward developing a system that provides adequate career stability to the members of the Service. Not more than 1 year after the date of enactment of this Act, the Commission shall transmit its report and recommendations to the Secretary of State, the Chairman of the Committee on Foreign Relations of the Senate, the Chairman of the Committee on Foreign Affairs of the House of Representatives, and the Chairman of the Committee on Post Office and Civil Service of the House of Representatives.

SEC. 172.[42] PROTECTION OF CIVIL SERVICE EMPLOYEES.

(a) FINDINGS.—The Congress finds that—

(1) the effectiveness and efficiency of the Department of State is dependent not only on the contribution of Foreign Service employees but equally on the contribution of the 42 percent of the Department's employees who are employed under the Civil Service personnel system;

(2) the contribution of these Civil Service employees has been overlooked in the management of the Department and greater equality of promotion, training, and career enhancement op-

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[42] 22 U.S.C. 2664a.

portunities should be accorded to the Civil Service employees of the Department; and

(3) a goal of the Foreign Service Act of 1980 was to strengthen the contribution made by Civil Service employees of the Department of State by creating a cadre of experienced specialists and managers in the Department to provide essential continuity.

(b) EQUITABLE REDUCTION OF BUDGET.—The Secretary of State shall take all appropriate steps to assure that the burden of cuts in the budget for the Department is not imposed disproportionately or inequitably upon its Civil Service employees.

(c) ESTABLISHMENT OF THE OFFICE OF THE OMBUDSMAN FOR CIVIL SERVICE EMPLOYEES.—There is established in the Office of the Secretary of State the position of Ombudsman for Civil Service Employees. The position of Ombudsman for Civil Service Employees shall be a career reserved position within the Senior Executive Service. The Ombudsman for Civil Service Employees shall report directly to the Secretary of State and shall have the right to participate in all Management Council meetings to assure that the ability of the Civil Service employees to contribute to the achievement of the Department's mandated responsibilities and the career interests of those employees are adequately represented. The position of Ombudsman for Civil Service Employees shall be designated from one of the Senior Executive Service positions (as defined in section 3132(a)(2) of title 5, United States Code) in existence on the date of enactment of this Act.

(d) DEFINITION.—For purposes of this section, the term "Civil Service employees" means employees of the Federal Government except for members of the Foreign Service (as defined in section 103 of the Foreign Service Act of 1980).

SEC. 173. COMPENSATION FOR CERTAIN STATE DEPARTMENT OFFICIALS.

(a)[43] * * *

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect 30 days after the date of enactment of this Act.

(c) BUDGET ACT.—Any new spending authority (as defined in section 401(c) of the Congressional Budget Act of 1974) provided by this section shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

SEC. 174. AUDIT OF MERIT PERSONNEL SYSTEM OF FOREIGN SERVICE.

The Comptroller General of the United States shall conduct an audit and inspection of the operation of the merit personnel system in the Foreign Service and report to the Congress, not later than one year after the date of enactment of this Act, as to any improvements in the merit personnel system that the Comptroller General considers necessary. The report of the Comptroller General shall pay particular attention to reports of racial, ethnic, sexual, and other discriminatory practices in the recruitment, appointment, assignment, and promotion of Foreign Service employees.

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[43] Sec. 173(a) amended secs. 35(b) and 203(a) of the State Department Basic Authorities Act of 1956 (Public Law 84-885).

SEC. 175.[44] PERFORMANCE PAY.

(a) Review of Performance Pay Programs.—

(1) Suspension of awards during review.—During the period beginning on the date of enactment of this Act, and ending on the date on which the Inspector General of the Department of State reports to the Congress pursuant to paragraph (2), performance pay may not be awarded under section 405 of the Foreign Service Act of 1980 (22 U.S.C. 3965) to any member of the Senior Foreign Service in the Department of State.

(2) Review by inspector general.—The Inspector General of the Department of State shall conduct a complete and thorough review of—

(A) the procedures in the Department of State under which performance pay recipients are chosen to determine whether the procedures and award determinations are free from bias and reflect fair standards; and

(B) the adequacy of the criteria and the equity of the criteria actually applied in making those awards.

The review should be conducted in accordance with generally accepted Government auditing standards. The Inspector General shall report the results of this review to the Secretary of State and to the Congress no later than May 1, 1988.

(3) Report by secretary of state.—No later than 60 days after the report of the Inspector General is submitted to the Secretary of State under paragraph (2), the Secretary shall submit to the Congress a report containing the comments of the Secretary on the report of the Inspector General and describing the actions taken and proposed to be taken by the Secretary as a result of the report.

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SEC. 177. CHIEF OF MISSIONS SALARY.

(a)[45] * * *

(b)[46] * * *

(c) Effective Date.—The amendments made by subsections (a) and (b) shall not apply to the salary of any individual serving under a Presidential appointment under section 302 of the Foreign Service Act of 1980 immediately before the date of the enactment of this Act during the period such individual continues to serve in such position.

SEC. 178. PAY LEVEL OF AMBASSADORS AT LARGE.

(a)[47] Compensation.—Chapter 53 of title 5 of the United States Code is amended—

(1) in section 5313, by striking out "Ambassadors at Large."; and

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[44] 22 U.S.C. 3965 note.

[45] Sec. 177(a) amended sec. 401(a) of the Foreign Service Act of 1980 (Public Law 96-465, 22 U.S.C. 3961(a)).

[46] Sec. 177(b) amended sec. 302(b) of the Foreign Service Act of 1980 (Public Law 96-465, 22 U.S.C. 3942(b)).

[47] Subsec. (a) moved the post of "Ambassador at Large" from a Level II to a Level IV on the Executive Schedule.

(2) in section 5315, by adding at the end thereof the following: "Ambassadors at Large.".

(b) EFFECTIVE DATE AND LIMITATION.—The amendments made by subsection (a) shall take effect 30 days after the date of enactment of this Act and shall not affect the salary of any individual holding the rank of Ambassador at Large immediately before the date of enactment of this Act during the period such individual continues to serve in such position.

SEC. 179. FOREIGN SERVICE CAREER CANDIDATES TAX TREATMENT.

(a)[48] * * *

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to tax years beginning after December 31, 1987.

SEC. 180. PROHIBITION ON MEMBER OF A FOREIGN SERVICE UNION NEGOTIATING ON BEHALF OF THE DEPARTMENT OF STATE.

It is the sense of Congress that the Secretary of State should take steps to assure that in labor-management negotiations between the Department of State and the exclusive representative of the Foreign Service employees of the Department, those who direct and conduct negotiations on behalf of management are not also beneficiaries of the agreements made with the exclusive representative.

SEC. 181. CLARIFICATION OF JURISDICTION OF FOREIGN SERVICE GRIEVANCE BOARD.

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(e) APPLICATION.—The amendments made by this section shall not apply with respect to any grievance in which the Board has issued a final decision pursuant to section 1107 of the Foreign Service Act of 1980 (22 U.S.C. 4137) before the date of enactment of this Act.

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SEC. 183.[49] WOMEN AND MINORITIES IN THE FOREIGN SERVICE.

(a) FINDINGS.—The Congress finds that the Department of State and other Foreign Service agencies have not been successful in their efforts—

(1) to recruit and retain members of minority groups in order to increase significantly the number of members of minority groups in the Foreign Service; and

(2) to provide adequate career advancement for women and members of minority groups in order to increase significantly the numbers of women and members of minority groups in the senior levels of the Foreign Service.

(b) A MORE REPRESENTATIVE FOREIGN SERVICE.—The Secretary of State and the head of each of the other agencies utilizing the Foreign Service personnel system—

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[48] Subsec. (a) amended sec. 301(d)(3) of the Foreign Service Act of 1980 (Public Law 96-465, 94 Stat. 2071). It prohibited career foreign service employees from representing themselves to income tax authorities of the District of Columbia or any other State as exempt from income taxation.

[49] 22 U.S.C. 3922a note.

(1) shall substantially increase their efforts to implement effectively the plans required by section 152(a) of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987, so that the Foreign Service becomes truly representative of the American people throughout all levels of the Foreign Service; and

(2) shall ensure that those plans effectively address the need to promote increased numbers of qualified women and members of minority groups into the senior levels of the Foreign Service.

(c) DEPARTMENT OF STATE HIRING PRACTICES OF MINORITIES AND WOMEN.—The Secretary of State shall include annually as part of the report required to be submitted pursuant to section 105(d)(2) of the Foreign Service Act of 1980—

(1) a report on the progress made at the Assistant Secretary and Bureau level of the Department of State in increasing the presence of minorities and women at all levels in the Foreign Service and Civil Service workforces of the Department of State, and

(2) the specific actions taken to address the lack of Hispanic Americans, Asian Americans, and Native Americans in the Senior Executive Service and Senior Foreign Service of the Department of State.

SEC. 184. COMPLIANCE WITH LAW REQUIRING REPORTS TO CONGRESS.

(a) COMPLIANCE WITH PRIOR REQUEST.—Within 90 days after the date of enactment of this Act, the Secretary of State shall submit to the chairmen and ranking members of the Committee on Foreign Relations and the Committee on Governmental Affairs of the Senate, and the Committee on Foreign Affairs, the Committee on Post Office and Civil Service, and the Committee on Government Operations of the House of Representatives, a report complying with the 1984 request of the Senate Committee on Governmental Affairs for a listing and description of all policy and supporting positions in the Department of State and related agencies. The report shall include an unclassified tabulation, as of the 1984 request, of the following:

(1) All Foreign Service officer positions then occupied by noncareer appointees.

(2) All positions in the Senior Foreign Service subject to noncareer appointment.

(3) The name of the incumbent; location; type; level, grade, or salary; tenure; and expiration (if any) of each position.

(b) COMPLIANCE WITH FUTURE REQUESTS.—Whenever the Committee on Governmental Affairs of the Senate or the Committee on Post Office and Civil Service of the House of Representatives requests information from the Secretary of State for inclusion in the publication "U.S. Government Policy and Supporting Positions", the Secretary shall provide such information in a timely manner.

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SEC. 186. DISPOSITION OF PERSONAL PROPERTY ABROAD.

(a)[50] * * *

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[50] Subsec. (a) added a new title III to the State Department Basic Authorities Act of 1956 (Public Law 84-885, 70 Stat. 890). For text, see page 238.

(b) EFFECTIVE DATE.—This section shall take effect 180 days after the date of enactment of this Act.

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SEC. 188.[51] * * *

TITLE II—THE UNITED STATES INFORMATION AGENCY [52]

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TITLE III—EDUCATIONAL AND CULTURAL AFFAIRS [53]

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TITLE IV—VOICE OF AMERICA [54]

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TITLE V—THE BOARD FOR INTERNATIONAL BROADCASTING [55]

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TITLE VI—ASIA FOUNDATION [56]

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TITLE VII—INTERNATIONAL ORGANIZATIONS

PART A—UNITED NATIONS

SEC. 701.[57] PROBABLE EXEMPTIONS TO THE UNITED NATIONS EMPLOYEE HIRING FREEZE.

(a) FINDINGS.—The Congress makes the following findings:

(1) In April 1986, the Secretary-General of the United Nations adopted a freeze on the hiring of personnel within the United Nations Secretariat.

(2) The conditions of the freeze were such that, as the terms of office for the personnel expired, replacements would not be recruited or hired to fill the vacant positions, with minor exceptions.

(3) The freeze was designed to reduce United Nations personnel by 15 percent over three years, as recommended by the Group of High-Level Intergovernmental Experts to Review the Efficiency of the Administrative and Financial Functioning of the United Nations (commonly referred to as the "Group of 18 Experts").

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[51] Sec. 188 added new secs. 830, 831 and 832 to the Foreign Service Act of 1980 (Public Law 96–465, 94 Stat., 2071) concerning benefits for certain former spouses of members of the foreign service.

[52] See page 618 for text of free-standing provisions in this title.

[53] See page 623 for text of free-standing provisions in this title.

[54] See page 625 for text of free-standing provisions in this title.

[55] Most of title V contained amendments to the Board for International Broadcasting Act of 1973. For text of free-standing provisions, see page 748.

[56] Title VI amended sec. 404 of the Asia Foundation Act (Public Law 98–164). For text, see page 582.

[57] 22 U.S.C. 287e note.

(4) On May 5, 1987, the Secretary-General reported to the Department of State that he was considering granting 156 exceptions to the hiring freeze.

(5) Of these 156 probable exceptions, 104 would be Soviet and Soviet-bloc nationals currently employed in the United Nations Secretariat—of 298 Soviet and Soviet-bloc nationals currently employed in the United Nations Secretariat—who would be replaced over the next 18 months.

(6) According to a report from the Select Committee on Intelligence of the Senate on "Soviet Presence in the United Nations Secretariat" (Senate Print 99-52, May 1985), approximately one-fourth of the Soviets in the United Nations Secretariat are intelligence officers, many more are co-opted by the Soviet intelligence agencies, and all Soviets in the United Nations Secretariat must respond to KGB requests for assistance.

(7) Other United States intelligence authorities estimate that as many as one-half of the Soviet and Soviet-bloc nationals in the United Nations Secretariat are officers of the KGB or the GRU.

(8) If the Secretary-General's probable exemptions are adopted, the Soviet Union will be allowed to replace retiring Soviet and Soviet-bloc personnel with new, highly skilled and well-trained intelligence officers of the KGB or the GRU.

(9) The Secretary-General's proposed exceptions would thus provide the Soviet Union with the capability to rebuild its intelligence apparatus within the United States, which was devastated in recent years when the United States ordered severe reductions in the size of the Soviet mission to the United Nations, the Soviet Embassy in Washington, District of Columbia, and the Soviet Consulate in San Francisco, California.

(10) Article 100 of the United Nations Charter calls for the establishment of an international civil service whose members are neutral and loyal only to the United Nations.

(11) Section 3 of Article 101 of the United Nations Charter calls for the appointment of individuals who are professionally qualified for the positions they are to fill and maintains that due regard shall be paid to the importance of recruiting the staff on as wide a geographical basis as possible.

(12) As of September 1985, 442 of 446 Soviet nationals employed throughout the United Nations system are "seconded", that is, serve on short, fixed-term contracts.

(13) Through the abuse of short, fixed-term contracts, the Soviet Union has maintained undue influence and control over major offices of the United Nations Secretariat, thereby effectively using the United Nations Secretariat in the conduct of its foreign relations, in clear violation of Articles 100 and 101 of the United Nations Charter.

(14) The Secretary-General's proposed exceptions to the hiring freeze (as described in paragraphs (1) through (5)) would continue the gross violations of Articles 100 and 101 of the United Nations Charter described in paragraph (13).

(15) The Secretary-General's proposed exceptions to such hiring freeze would be clearly inconsistent with the terms of the United Nation's self-imposed reform program.

(16) The United Nations has not yet achieved its reform goals and there is no indication that the United Nations can afford to make such large exceptions to such hiring freeze.

(b) Report to Congress.—(1) The Secretary of State shall report to the Congress not later than 90 days after the date of enactment of this Act and annually thereafter as to the status of secondment within the United Nations by the Soviet Union and Soviet-bloc member-nations.

(2) Such report shall contain as a minimum, a thorough analysis of the following issues:

(A) The number of Soviet and Soviet-bloc nationals who are currently seconded to the United Nations system on short, fixed-term contracts in New York, Geneva, Vienna, and Nairobi, and the percentage such number is to the total number of Soviet and Soviet-bloc nationals so seconded.

(B) The number of Soviet and Soviet-bloc nationals who are currently employed in the United States system on long-term contracts.

(C) The measures undertaken by the United States to persuade the United Nations Secretariat to enforce the provisions of the United Nations Charter which specifically govern the behavior and activities of United Nations employees, especially Articles 100 and 101.

(D) The measures undertaken by the United States either through bilateral or multilateral channels with the Soviet Union and other members of the Soviet-bloc to end their abuse of secondment.

(E) The measures undertaken by the United States to challenge Soviet and Soviet-bloc nationals' credentials and to deny them entry visas, in order to keep Soviet and Soviet-bloc intelligence operatives out of the United States and United Nations.

(F) The counterintelligence efforts undertaken by the United States to protect United States national security from hostile intelligence activities directed against the United States by Soviet and Soviet-bloc intelligence operatives employed by the United Nations.

(c) Sense of the Congress.—It is the sense of the Congress that—

(1) the President should take all such actions necessary to ensure compliance with the hiring freeze rule, including withholding all assessed United States contributions to the United Nations, and denying United States entry visas to Soviet and Soviet-bloc applicants coming to the United States to replace Soviet and Soviet-bloc nationals currently serving in the United Nations Secretariat;

(2) the President, through the Department of State and the United States mission to the United Nations, should express to the Secretary-General of the United Nations the insistence of the American people that the hiring freeze continue indefinitely, or until the United Nations has complied with the Group of 18 recommendations and can thus afford to make exceptions to the freeze;

(3) the Secretary-General should revoke all exceptions to the hiring freeze rule, excepting those member-nations which have 15 or fewer nationals serving in the United Nations Secretariat, or those positions not subject to geographical representation, such as those of the general service category;

(4) the long-term, flagrant violations of Articles 100 and 101 of the United Nations Charter and the abuse of secondment by the Soviet Union and Soviet-bloc member-nations are reprehensible;

(5) the United Nations should adopt the recommendations of the Group of 18 (as referred to in subsection (a)(3)) that no member-nation be allowed to have more than 50 percent of its nationals employed under fixed-term contracts;

(6) the Soviet Union is hereby condemned for—

(A) its refusal to adhere to the principles of the United Nations Charter calling for an international civil service,

(B) its abuse of secondment, and

(C) its absolute disregard of the solemn purpose of the United Nations to be an international civil service; and

(7) if the Soviet Union and the Soviet-bloc intend to remain member-nations of the United Nations, they should adhere to Articles 100, 101, and all other principles of the United Nations Charter to which every other member-nation must adhere.

(d) DEFINITION.—For the purposes of this section, the term "Soviet-bloc" means the countries of Bulgaria, Cuba, Czechoslovakia, East Germany, Hungary, Nicaragua, North Korea, Poland, and Romania.

SEC. 702. REFORM IN THE BUDGET DECISION-MAKING PROCEDURES OF THE UNITED NATIONS AND ITS SPECIALIZED AGENCIES.

(a) FINDINGS.—The Congress finds that the consensus based decision-making procedure established by General Assembly Resolution 41/213 is a significant step toward complying with the intent of section 143 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (22 U.S.C. 287e note, 99 Stat. 405), as in effect before the date of enactment of this Act.[58]

(b)[59] * * *

(c) * * *

(d) TERMINATION DATE.—This section shall terminate on September 30, 1989.

SEC. 703. HOUSING ALLOWANCES OF INTERNATIONAL CIVIL SERVANTS.

(a) UNITED STATES POLICY.—It is the policy of the United States to seek the implementation by the United Nations of the recommendation by the International Civil Service Commission to deduct from the pay (commonly referred to as a "rental deduction") of an international civil servant the amount of any housing allowance or payment which is provided by any member state to that international civil servant, in accordance with Article 100 of the Charter of the United Nations and regulations thereunder.

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[58] The text of sec. 143 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 as it read prior to enactment of this Act may be found at footnote 25, page 92.

[59] Subsec. (b) substantially amended sec. 143 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99-93, 99 Stat. 405). It established the terms and conditions under which the United States assessed contributions to the United Nations for each calendar year may be paid. For text, see page 92.

(b) UNITED STATES AMBASSADOR TO THE UNITED NATIONS.—The United States Ambassador to the United Nations shall seek to promote the adoption of the recommendation described in subsection (a).

SEC. 704.[60] * * *

SEC. 705.[61] * * *

SEC. 706. PUBLIC ACCESS TO UNITED NATIONS WAR CRIMES COMMISSION FILES.

(a) FINDINGS.—The Congress finds that—

(1) with the passing of time, it is important to document fully Nazi war crimes and crimes against humanity, lest the enormity of those crimes be forgotten; and

(2) the files of the United Nations War Crimes Commission deposited in the archives of the United Nations contain information valuable to our knowledge of the genocidal actions of the Nazis.

(b) POLICY.—It is the sense of the Congress that United States policy should be to support access by interested individuals and organizations to the files of the United Nations War Crimes Commission deposited in the archives of the United Nations.

* * * * * * *

SEC. 708. PROTECTION OF TYRE BY THE UNITED NATIONS INTERIM FORCE IN LEBANON.

(a) FINDINGS.—The Congress finds that—

(1) the archaeological site of the ancient city of Tyre is an important part of the heritage of the people of Lebanon and of people everywhere;

(2) war and civil strife threaten the survival of the archaeological site at Tyre;

(3) the purchase of artifacts from Tyre, including purchases allegedly made by troops of the United Nations Interim Force in Lebanon (UNIFIL), is encouraging illegal excavation and looting of the Tyre site; and

(4) the United Nations Interim Force in Lebanon (UNIFIL) could best protect the archaeological site of Tyre so as to preserve this treasure for future generations.

(b) EXTENSION OF MANDATE OF UNIFIL.—The Secretary of State should request the Secretary General of the United Nations and the Security Council to extend the mandate of the United Nations Interim Force in Lebanon (UNIFIL) to include protection of the archaeological site of the ancient city of Tyre. The Secretary of State is directed to seek an order prohibiting the purchase of any artifact from Tyre by any person associated with the United Nations.

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[60] Sec. 704 amended sec. 115(b) of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98-164, 97 Stat. 1017). It suspended United States participation in any organ of the United Nations, with the exception of the United Nations Security Council or the Safeguards Program of the International Atomic Energy Agency, that illegally expels, suspends or denies credentials to Israel.

[61] Sec. 705 amended sec. 114(a) of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98-164, 97 Stat. 1017). It limited the United States assessed contribution to the United Nations to the amount assessed less 25 percent of the amount budgeted for the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories.

(c) REPORTING REQUIREMENT.—Not later than 6 months after the date of enactment of this Act, and every 12 months thereafter, for as long as the United Nations Interim Force in Lebanon remains in Lebanon, the Secretary of State shall report in writing to the chairman of the Committee on Foreign Relations of the Senate and the chairman of the Committee on Foreign Affairs of the House of Representatives on the progress made in implementing this section.

PART B—UNITED STATES COMMISSION ON IMPROVING THE EFFECTIVENESS OF THE UNITED NATIONS

SEC. 721.[62] ESTABLISHMENT OF COMMISSION.

The United States Commission on Improving the Effectiveness of the United Nations (hereafter in this part referred to as the "Commission") is hereby established.

SEC. 722.[62] PURPOSES OF THE COMMISSION.

(a) PURPOSES.—The purposes of the Commission shall be to—

(1) examine the United Nations system as a whole and identify and evaluate its strengths and weaknesses; and

(2) prepare and submit to the President and to the Congress recommendations on ways to improve the effectiveness of the United Nations system and the role of the United States in the United Nations system, including the feasibility of and means for implementing such recommendations.

(b) CONSULTATION REGARDING OTHER UNITED NATIONS REFORM EFFORTS.—In carrying out this section, the Commission shall make every effort to consult, where appropriate, with other public and private institutions and organizations engaged in efforts to reform the United Nations system, including efforts being made directly under the auspices of the United Nations.

SEC. 723.[62] MEMBERSHIP OF THE COMMISSION.

(a) MEMBERS.—

(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of 16 members, appointed as follows:

(A) Two Members of the Senate, one appointed by the President pro tempore of the Senate and one appointed by the Minority Leader of the Senate.

(B) Two Members of the House of Representatives, one appointed by the Speaker of the House and one appointed by the Minority Leader of the House.

(C) Eight individuals from the private sector, two appointed by the President pro tempore of the Senate, two appointed by the Minority Leader of the Senate, two appointed by the Speaker of the House, and two appointed by the Minority Leader of the House.

(D) Four individuals appointed by the President, not more than two of whom may be from the same political party.

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[62] 22 U.S.C. 287 note.

(2) CRITERION FOR APPOINTMENTS.—Individuals appointed pursuant to subparagraphs (C) and (D) of paragraph (1) shall be representative, to the maximum extent possible, of the full range of American society.

(3) APPOINTMENTS TO BE MADE PROMPTLY.—All appointments pursuant to paragraph (1) shall be made not later than 60 days after the effective date of this part.

(4) VACANCIES.—Any vacancy in the membership of the Commission shall be filled in the same manner as the original appointment was made.

(b) ADVISORS.—Former United States Permanent Representatives to the United Nations who are not appointed to the Commission shall be invited by the Commission to serve as advisors to the Commission.

(c) COMPENSATION AND TRAVEL EXPENSES.—

(1) COMPENSATION IN GENERAL.—Except as provided in paragraph (2), each member of the Commission may be compensated at not to exceed the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Commission.

(2) GOVERNMENT PERSONNEL.—Members of the Commission who are full-time officers or employees of the United States or Members of Congress shall receive no additional pay on account of their service on the Commission.

(3) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission, and Advisors serving pursuant to subsection (b), shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

(d) CHAIRMAN AND VICE CHAIRMAN.—The Chairman and Vice Chairman shall be elected by the Commission from among members of the Commission.

(e) QUORUM.—Nine members of the Commission shall constitute a quorum for purposes of transacting business, except that four members shall constitute a quorum for holding public hearings.

SEC. 724.[62] POWERS OF THE COMMISSION.

(a) IN GENERAL.—For the purpose of carrying out this part, the Commission may hold such hearings (subject to the requirements of subsection (b)) and sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers necessary to fulfill the purposes specified in section 722.

(b) MEETINGS.—

(1) MINIMUM NUMBER OF PUBLIC HEARINGS.—The Commission shall hold a minimum of five public hearings.

(2) OPEN MEETINGS.—Section 552b of title 5 of the United States Code shall apply with respect to the Commission.

(3) CALLING MEETINGS.—The Commission shall meet at the call of the Chairman or a majority of its members.

(c) Delegation of Authority.—When so authorized by the majority of the Commission, any member or agent of the Commission may take any action which the Commission is authorized to take by this section.

(d) Information From Federal Agencies.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out this part. Upon request of the Chairman of the Commission, the head of any such Federal agency shall furnish such information to the Commission, to the extent authorized by law; except that the head of any Federal agency to which a request for information is provided pursuant to this subsection may deny access to such information, or make access subject to such terms and conditions as the head of that agency may prescribe, on the basis that the information in question is classified and the Commission does not have adequate procedures to safeguard the information in question, or that the Commission does not have a need to know the classified information. In addition, a Federal agency may not provide the Commission with information that could disclose intelligence sources or methods without first securing the approval of the Director of Central Intelligence. The head of any such Federal agency may provide information on a reimbursable basis.

SEC. 725.[62] STAFF.

(a) Staff Members and Consultants.—Subject to such rules as may be adopted by the Commission, the Chairman of the Commission, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classifications and General Schedule pay rates, may—

(1) appoint a Director who shall be paid at a rate not to exceed the rate of basic pay in effect for Level V of the Executive Schedule under section 5316 of title 5, United States Code;

(2) appoint and fix the compensation of such other staff personnel as the Chairman considers necessary; and

(3) procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code.

(b) Detailing of Government Personnel.—Upon request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of that agency to the Commission to assist it in carrying out this part.

SEC. 726.[62] REPORT.

The Commission shall transmit to the President and to the Congress a report containing a detailed statement of the findings, conclusions, and recommendations of the Commission, including minority views. This report shall be transmitted not later than 18 months after the date on which all members of the Commission have been appointed.

SEC. 727.[62] FUNDING FOR THE COMMISSION.

(a) Commission To Be Privately Funded.—The Commission may accept and use contributions from private United States sources to carry out this part. No Federal funds may be made available to the Commission for use in carrying out this part.

(b) LIMITATION ON SIZE OF CONTRIBUTIONS.—The Commission may not accept contributions from any single source which have a value of more than—

(1) $100,000, or

(2) 20 percent of the total of all contributions accepted by the Commission.

(c) COMMISSION APPROVAL OF CERTAIN CONTRIBUTIONS.—The Commission may accept contributions having a value of $1,000 or more from a single source only if more than two-thirds of the members of the Commission have approved the acceptance of those contributions.

(d) DISCLOSURE OF CONTRIBUTIONS.—

(1) PERIODIC REPORTS TO CONGRESS.—Every 30 days, the Commission shall submit to the chairman of the Committee on Foreign Affairs of the House of Representatives, and to the chairman of the Committee on Foreign Relations of the Senate, a list of the source and amount of each contribution accepted by the Commission during the preceding 30 days.

(2) FINAL REPORT.—The source and amount of each contribution accepted by the Commission shall be listed in the report submitted pursuant to section 726.

(e) LIMITATION ON OBLIGATIONS AND EXPENDITURES.—Notwithstanding subsection (a), the limitations on expenditures and obligations in section 1341 of title 31, United States Code, shall apply to the Commission.

SEC. 728.[62] GENERAL ACCOUNTING OFFICE AUDITS OF THE COMMISSION.

The provisions of subchapter II of chapter 7 of title 31 of the United States Code (relating to the general duties and powers of the General Accounting Office) shall apply with respect to the programs and activities of the Commission, including the receipt, disbursement, and use of funds contributed to the Commission, to the same extent as those provisions apply with respect to other agencies of the United States Government.

SEC. 729.[62] TERMINATION OF THE COMMISSION.

The Commission shall cease to exist 60 days after submitting its report pursuant to section 726.

SEC. 730.[62] EFFECTIVE DATE.

This part shall take effect on March 1, 1989.

PART C—OTHER INTERNATIONAL ORGANIZATIONS

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SEC. 742. CONTRIBUTION TO THE REGULAR BUDGET OF THE INTERNATIONAL RED CROSS AND SENSE OF CONGRESS CONCERNING RECOGNITION OF RED SHIELD OF DAVID.

(a) UNITED STATES CONTRIBUTION.—Pursuant to the provisions of section 109 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987, the Secretary of State shall make an annual contribution to the regular budget of the International Committee of the Red Cross of an amount which is not less than 10 percent of its regular budget. Such contribution may be made from the funds authorized to be appropriated by section 104 for "Migration and Refugee Assistance".

(b) LIMITATION ON CONTRIBUTIONS.—Notwithstanding subsection (a), for fiscal year 1988, the United States contribution to the regular budget of the International Committee of the Red Cross shall not exceed nor be less than the amount contributed by the United States to the regular budget of the International Committee of the Red Cross in fiscal year 1987.

(c) RECOGNITION OF THE RED SHIELD OF DAVID.—It is the sense of the Congress that a diplomatic conference of governments should grant identical status of recognition to the Red Shield of David (Magen David Adom) as that granted to the Red Cross and the Red Crescent and that the Red Shield of David Society of Israel should be accepted as a full member of the League of Red Cross Societies and the quadrennial International Conferences of the Red Cross.

SEC. 743.[63] * * *

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SEC. 745.[64] UNITED STATES MEMBERSHIP IN INTERGOVERNMENTAL COMMITTEE FOR EUROPEAN MIGRATION.

The President is hereby authorized to continue membership for the United States in the Intergovernmental Committee for European Migration in accordance with its constitution approved in Venice, Italy, on October 19, 1953, and, upon entry into force of the amendments to such constitution approved in Geneva, Switzerland, on May 20, 1987, to continue membership in the organization under the name International Organization for Migration in accordance with such constitution and amendments. For the purpose of assisting in the movement of refugees and migrants and to enhance the economic progress of the developing countries by providing for a coordinated supply of selected manpower, there are hereby authorized to be appropriated such amounts as may be necessary from time to time for the payment by the United States of its contributions to the Committee and all necessary salaries and expenses incidental to United States participation in the Committee.

SEC. 746. RECOGNITION OF CARICOM.

It is the sense of the Congress that the Secretary of State should consider recognizing the Caribbean Community and Common Market (CARICOM) as a regional planning organization in the Caribbean.

SEC. 747. ASIAN-PACIFIC REGIONAL HUMAN RIGHTS CONVENTION.

Not later than 180 days after the date of enactment of this Act, the Secretary of State shall submit a report to the Congress which—

(1) examines the nature and extent of human rights problems in the Asian-Pacific region; and

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[63] Sec. 743 amended the International Organizations Immunities Act (Public Law 79-291, 59 Stat. 669) to recognize the International Committee of the Red Cross as an international organization.

[64] 22 U.S.C. 2601 note.

(2) assesses the willingness of the countries in the region to negotiate a regional human rights convention similar to the American Convention on Human Rights, the Conference on Security and Cooperation in Europe, and the African Charter on Peoples' and Human Rights.

TITLE VIII—INTERNATIONAL NARCOTICS CONTROL [65]

SEC. 801. ASSIGNMENT OF DRUG ENFORCEMENT ADMINISTRATION AGENTS ABROAD.

If the Secretary of State, in exercising his authority to establish overseas staffing levels for Federal agencies with activities abroad, authorizes the assignment of any Drug Enforcement Administration agent to a particular United States mission abroad, the Secretary shall authorize the assignment of at least two such agents to that mission.

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SEC. 803. REQUIREMENT THAT EXTRADITION OF DRUG TRAFFICKERS BE A PRIORITY ISSUE OF UNITED STATES MISSIONS IN MAJOR ILLICIT DRUG PRODUCING OR TRANSIT COUNTRIES.

The Secretary of State shall ensure that the Country Plan for the United States diplomatic mission in each major illicit drug producing country and in each major drug-transit country (as those terms are defined in section 481(i) of the Foreign Assistance Act of 1961) includes, as an objective to be pursued by the mission—

(1) negotiating an updated extradition treaty which ensures that drug traffickers can be extradited to the United States, or

(2) if an existing treaty provides for such extradition, taking such steps as may be necessary to ensure that the treaty is effectively implemented.

SEC. 804. INFORMATION-SHARING SYSTEM SO THAT VISAS ARE DENIED TO DRUG TRAFFICKERS.

Not later than 90 days after the date of enactment of this Act, the Secretary of State shall submit to the Congress a report on the status of the comprehensive information system on drug arrests of foreign nationals which was required to be established by section 132 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987.

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SEC. 806. SANCTIONS ON DRUG PRODUCING AND DRUG-TRANSIT COUNTRIES.

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(c) ALIENS EXCLUDABLE FROM ADMISSION TO THE UNITED STATES.—Section 212(a)(23) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(23)) is amended to read as follows:

"(23) Any alien who—

"(A) has been convicted of a violation of, or a conspiracy to violate, any law or regulation of a State, the United States, or a foreign country relating to a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)); or

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[65] 22 U.S.C. 2656 note. For other legislation on international narcotics control, see vol. I, at page 698.

"(B) the consular officers or immigration officers know or have reason to believe is or has been an illicit trafficker in any such controlled substance or is or has been a knowing assistor, abettor, conspirator, or colluder with others in the illicit trafficking in any such controlled substance;".

TITLE IX—IMMIGRATION AND REFUGEE PROVISIONS

SEC. 901.[66] PROHIBITION ON EXCLUSION OR DEPORTATION OF ALIENS ON CERTAIN GROUNDS.

(a) [67] IN GENERAL.—Notwithstanding any other provision of law, no nonimmigrant alien may be denied a visa or excluded from admission into the United States, or subject to deportation because of any past, current or expected beliefs, statements or associations which, if engaged in by a United States citizen in the United States, would be protected under the Constitution of the United States.

(b) CONSTRUCTION REGARDING EXCLUDABLE ALIENS.—Nothing in this section shall be construed as affecting the existing authority of the executive branch to deport, to deny issuance of a visa to, to deny adjustment of status of,[68] or to deny admission to the United States of, any alien—

(1) for reasons of foreign policy or national security, except that such deportation or denial may not be based on past, current, or expected beliefs, statements, or associations which, if engaged in by a United States citizen in the United States, would be protected under the Constitution of the United States, unless such alien is seeking issuance of a visa, adjustment of status, or admission to the United States as an immigrant;[69]

(2) who a consular official or the Attorney General knows or has reasonable ground to believe has engaged, in an individual capacity or as a member of an organization, in a terrorist activity or is likely to engage after entry in a terrorist activity; or

(3) who seeks to enter in an official capacity as a representative of a purported labor organization in a country where such organizations are in fact instruments of a totalitarian state.

In addition, nothing in subsection (a) shall be construed as applying to an alien who is described in section 212(a)(33) of the Immigration and Nationality Act (relating to those who assisted in the Nazi persecutions), to an alien described in the last sentence of section 101(a)(42) of such Act (relating to those assisting in other persecutions) who is seeking the benefits of section 207, 208, 243(h)(1), or

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[66] 8 U.S.C. 1182 note. Sec. 555 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461, 102 Stat. 2268–36) amended sec. 901 extensively (see following notes) and stated this proviso:

[67] Sec. 555 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461, 102 Stat. 2268–36) amended sec. 901(a), adding reference to "nonimmigrant" before "alien" and struck out "[be] subject to restrictions or conditions on entry into the United States", which appeared before "or subject to deportation * * *".

[68] Sec. 555 of Public Law 100–461 added "to deny adjustment of status of," here.

[69] Sec. 555 of Public Law 100–461 added text beginning with "unless such alien * * *".

245A of such Act (relating to admission as a refugee, asylum, withholding of deportation, and legalization), or to an alien who is described in section 21(c) of the State Department Basic Authorities Act of 1956. In paragraph (2), the term "terrorist activity" means the organizing, abetting, or participating in a wanton or indiscriminate act of violence with extreme indifference to the risk of causing death or serious bodily harm to individuals not taking part in armed hostilities.

(c) CONSTRUCTION REGARDING STANDING TO SUE.—Nothing in this section shall be construed as affecting standing in any Federal court or in any administrative proceeding.

(d) [70] EFFECTIVE PERIOD.—Subsection (a) shall only apply to—

(1) applications for nonimmigrant visa submitted before January 1, 1991;

(2) admissions sought before March 1, 1991;

(3) deportations based on activities occurring before January 1, 1991, or for which deportation proceedings (including judicial review with respect to such a proceeding) are pending at any time between December 31, 1987 and January 1, 1991.

SEC. 902.[71] ADJUSTMENT TO LAWFUL RESIDENT STATUS OF CERTAIN NATIONALS OF COUNTRIES FOR WHICH EXTENDED VOLUNTARY DEPARTURE HAS BEEN MADE AVAILABLE.

(a) ADJUSTMENT OF STATUS.—The status of any alien who is a national of a foreign country the nationals of which were provided (or allowed to continue in) "extended voluntary departure" by the Attorney General on the basis of a nationality group determination at any time during the 5-year period ending on November 1, 1987, shall be adjusted by the Attorney General to that of an alien lawfully admitted for temporary residence if the alien—

(1) applies for such adjustment within two years after the date of the enactment of this Act;

(2) establishes that (A) the alien entered the United States before July 21, 1984, and (B) has resided continuously in the United States since such date and through the date of the enactment of this Act;

(3) establishes continuous physical presence in the United States (other than brief, casual, and innocent absences) since the date of the enactment of this Act;

(4) in the case of an alien who entered the United States as a nonimmigrant before July 21, 1984, establishes that (A) the alien's period of authorized stay as a nonimmigrant expired not later than six months after such date through the passage

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[70] Sec. 555 of Public Law 100-461 amended subsec. (d). Paragraphs (1), (2), and (3) formerly read:

"(1) applications for visas submitted during 1988;

"(2) admissions sought after December 31, 1987, and before March 1, 1989; and

"(3) deportations based on activities occurring during 1988 or for which deportation proceedings (including judicial review with respect to such a proceeding) are pending at any time during 1988."

Sec. 555 of Public Law 100-461 also stated:

"*Provided further*, That the amendment made in the preceding sentence shall not require the deportation of aliens admitted for permanent resident status under section 901 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989, as in effect before the date of enactment of this Act". Public Law 100-461 was enacted October 1, 1988.

[71] 8 U.S.C. 1255a note.

of time or (B) the alien applied for asylum before July 21, 1984; and

(5) meets the requirements of section 245A(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1255a(a)(4)).

The Attorney General shall provide for the acceptance and processing of applications under this subsection by not later than 90 days after the date of the enactment of this Act.

(b) STATUS AND ADJUSTMENT OF STATUS.—The provisions of subsections (b), (c)(6), (d), (f), (g), (h), and (i) of section 245A of the Immigration and Nationality Act (8 U.S.C. 1255a) shall apply to aliens provided temporary residence under subsection (a) in the same manner as they apply to aliens provided lawful temporary residence status under section 245A(a) of such Act.

SEC. 903.[72] PROCESSING OF CUBAN NATIONALS FOR ADMISSION TO THE UNITED STATES.

(a) PROCESSING OF CERTAIN CUBAN POLITICAL PRISONERS AS REFUGEES.—In light of the announcement of the Government of Cuba on November 20, 1987, that it would reimplement immediately the agreement of December 14, 1984, establishing normal migration procedures between the United States and Cuba, on and after the date of the enactment of this Act, consular officers of the Department of State and appropriate officers of the Immigration and Naturalization Service shall, in accordance with the procedures applicable to such cases in other countries, process any application for admission to the United States as a refugee from any Cuban national who was imprisoned for political reasons by the Government of Cuba on or after January 1, 1959, without regard to the duration of such imprisonment, except as may be necessary to reassure the orderly process of available applicants.

(b) PROCESSING OF IMMIGRANT VISA APPLICATIONS OF CUBAN NATIONALS IN THIRD COUNTRIES.—Notwithstanding section 212(f) and section 243(g) of the Immigration and Nationality Act, on and after the date of the enactment of this Act, consular officers of the Department of State shall process immigrant visa applications by nationals of Cuba located in third countries on the same basis as immigrant visa applications by nationals of other countries.

(c) DEFINITIONS.—For purposes of this section:

(1) The term "process" means the acceptance and review of applications and the preparation of necessary documents and the making of appropriate determinations with respect to such applications.

(2) The term "refugee" has the meaning given such term in section 101(a)(42) of the Immigration and Nationality Act.

SEC. 904.[73] INDOCHINESE REFUGEE RESETTLEMENT.

(a) FINDINGS.—It is the sense of the Congress that—

(1) the continued occupation of Cambodia by Vietnam and the oppressive conditions within Vietnam, Cambodia, and Laos have led to a steady flight of persons from those countries, and the likelihood for the safe repatriation of the hundreds of thou-

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[72] 8 U.S.C. 1201 note.

[73] Legislation nearly identical to sec. 904 was enacted as secs. 801 to 803 of the Indochinese Refugee Resettlement and Protection Act of 1987 (sec. 101(a), title VIII, Continuing Appropriations Act, 1988, Public Law 100-202). For text, see page 570.

sands of refugees in the region's camps is negligible for the foreseeable future;

(2) the United States has already played a major role in responding to the Indochinese refugee problem by accepting approximately 850,000 Indochinese refugees into the United States since 1975 and has a continued interest in persons who have fled and continue to flee the countries of Cambodia, Laos, and Vietnam;

(3) Hong Kong, Indonesia, Malaysia, Singapore, the Philippines, and Thailand have been the front line countries bearing tremendous burdens caused by the flight of these persons;

(4) all members of the international community bear a share of the responsibility for the deterioration in the refugee first asylum situation in Southeast Asia because of slow and limited procedures, failure to implement effective policies for the region's "long-stayer" populations, failure to monitor adequately refugee protection and screening programs, particularly along the Thai-Cambodian and Thai-Laotian borders, and the instability of the Orderly Departure Program (ODP) from Vietnam which has served as the only safe, legal means of departure from Vietnam for refugees, including Amerasians and long-held "reeducation camp" prisoners;

(5) the Government of Thailand should be complemented for allowing the United States to process ration card holders in Khao I Dang and potentially qualified immigrants in Site 2 and in Khao I Dang;

(6) given the serious protection problem in Southeast Asian first asylum countries and the need to preserve first asylum in the region, the United States should continue its commitment to an ongoing, generous admission and protection program for Indochinese refugees, including urgently needed educational programs for refugees along the Thai-Cambodian and Thai-Laotian borders, until the underlying causes of refugee flight are addressed and resolved;

(7) the executive branch should seek adequate funding levels to meet United States policy objectives to ensure the well-being of Indochinese refugees in first asylum, and to process 29,500 Indochinese refugees within the overall refugee admissions level of 68,000 as determined by the President; and

(8) the Government of Thailand should be complimented for the progress that has been made in implementing an effective antipiracy program.

(b) RECOMMENDATIONS.—The Congress finds and recommends the following with respect to Indochinese refugees:

(1) The Secretary of State should urge the Government of Thailand to allow full access by highland refugees to the Lao Screening Program, regardless of the method of their arrival or the circumstances of their apprehension, and should intensify its efforts to persuade the Government of Laos to accept the safe return of persons rejected under the Lao Screening Program.

(2) Refugee protection and monitoring activities should be expanded along the Thai-Laotian border in an effort to identify

and report on incidents of refugees forcibly repatriated into Laos.

(3) The Secretary of State should urge the Government of Thailand to address immediately the problems of protection associated with the Khmer along the Thai-Cambodian border. The Government of Thailand, along with appropriate international relief agencies, should develop and implement a plan to provide for greater security and protection for the Khmer at the Thai border.

(4) The international community should increase its efforts to assure that Indochinese refugee camps are protected, that refugees have access to a free market at Site 2, and that international observers and relief personnel are present on a 24-hour-a-day basis at Site 2 and any other camp where it is deemed necessary.

(5) The Secretary of State should make every effort to identify each person at Site 2 who may qualify for admission to the United States as an immigrant and for humanitarian parole.

(6) The United Nations High Commissioner for Refugees should be pressed to upgrade staff presence and the level of advocacy to revive the international commitment with regard to the problems facing Indochinese refugees in the region, and to pursue voluntary repatriation possibilities in cases where monitoring is available and the safety of the refugees is assured.

(c) ALLOCATIONS OF REFUGEE ADMISSIONS.—Given the existing connection between ongoing resettlement and the preservation of first asylum, the United States and the United Nations High Commissioner for Refugees should redouble efforts to assure a stable and secure environment for refugees while dialog is pursued on other long-range solutions, it is the sense of the Congress that—

(1) within the worldwide refugee admissions ceiling determined by the President, the President should continue to recommend generous numbers of admissions from East Asia first asylum camps and from the Orderly Departure Program sufficient to sustain preservation of first asylum and security for Indochinese in Southeast Asia, consistent with worldwide refugee admissions requirements and the consultative processes of the Refugee Act of 1980;

(2) within the allocation made by the President for the Orderly Departure Program from Vietnam, the number of admissions allocated for Amerasians and their immediate family members should also be generous;

(3) renewed international efforts must be taken to address the problem of Indochinese refugees who have lived in camps for 3 years or longer; and

(4) the Secretary of State should urge the United Nations High Commissioner for Refugees to organize immediately an international conference to address the problems of Indochinese refugees.

(d) REPORTING.—The President shall submit a report to Congress within 180 days after the date of the enactment of this Act on the respective roles of the Immigration and Naturalization Service and the Department of State in the refugee program with recommendations for improving the effectiveness and efficiency of the program.

SEC. 905.[74] AMERASIAN CHILDREN IN VIETNAM.

(a) FINDINGS AND DECLARATIONS.—The Congress makes the following findings and declarations:

(1) Thousands of children in the Socialist Republic of Vietnam were fathered by American civilians and military personnel.

(2) It has been reported that many of these Amerasian children are ineligible for ration cards and often beg in the streets, peddle black market wares, or prostitute themselves.

(3) The mothers of Amerasian children in Vietnam are not eligible for government jobs or employment in government enterprises and many are estranged from their families and are destitute.

(4) Amerasian children and their families have undisputed ties to the United States and are of particular humanitarian concern to the United States.

(5) The United States has a longstanding and very strong commitment to receive the Amerasian children in Vietnam, if they desire to come to the United States.

(6) In September 1984, the United States informed the Socialist Republic of Vietnam that all Amerasian children in Vietnam, their mothers, and qualifying family members would be admitted as refugees to the United States during a three-year period.

(7) Amerasian emigration from Vietnam increased significantly in fiscal year 1985 under the Orderly Departure Program of the United Nations High Commissioner on Refugees.

(8) On January 1, 1986, the Socialist Republic of Vietnam unilaterally suspended interviews of all individuals seeking to leave Vietnam legally under the auspices of the Orderly Departure Program for resettlement in the United States.

(9) On the 19th and 20th of October 1987, the Socialist Republic of Vietnam permitted the United States to resume interviewing Amerasians and their families.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) the United States should maintain its strong commitment to receive the Amerasian children in the Socialist Republic of Vietnam and their families;

(2) the Socialist Republic of Vietnam should cooperate fully in facilitating the processing of all Amerasians who desire to be resettled in the United States; and

(3) the Socialist Republic of Vietnam should cooperate fully in the processing of Amerasians for emigration.

SEC. 906. REFUGEES FROM SOUTHEAST ASIA.

(a) FINDINGS.—The Congress finds that—

(1) the United States remains firmly committed to the security of Thailand and to improving relations between our two nations;

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[74] Subsec. (a), paragraphs (1) through (5), were also enacted as sec. 804 of the Indochinese Refugee Resettlement and Protection Act of 1987 (sec. 101(a), title VIII, of the Continuing Appropriations for 1988, Public Law 100-202). For text, see page 570.

(2) the United States refugee resettlement and humanitarian assistance programs constitute an important factor in bilateral relations between the United States and Thailand;

(3) the preservation of first asylum for those fleeing persecution is one of the primary objectives of the United States refugee program;

(4) the actions of another government in labeling refugee populations as "displaced persons" or closing its borders to new arrivals shall not constitute a barrier to the United States considering those individuals or groups to be refugees;

(5) it is in the national interest to facilitate the reunification of separated families of United States citizens and permanent residents, and the Congress will look with disfavor on any nation which seriously hinders emigration for such reunifications;

(6) the persecution of the Cambodian people under the Khmer Rouge rule from 1975–1979, which caused the deaths of up to two million people and in which the bulk of the Khmer people were subjected to life in an Asian Auschwitz, constituted one of the clearest examples of genocide in recent history; and

(7) the invasion of Cambodia by Vietnam and the subsequent occupation of that country by 140,000 Vietnamese troops backing up the Heng Samrin regime, which itself continues to seriously violate the human rights of Cambodians, and the presence of 40,000 heavily armed troops under the control of the same Khmer Rouge leaders, overwhelmingly demonstrate that the life or freedom of any Cambodian not allied with the Khmer Rouge or supporting Heng Samrin would be seriously endangered if such individual were forced by a country of first asylum to return to his or her homeland.

(b) STATEMENT OF POLICY.—It is the sense of the Congress that—

(1) any Cambodians who are, or had been, at Khao I Dang camp should be considered and interviewed for eligibility for the United States refugee program, irrespective of the date they entered Thailand or that refugee camp;

(2) any Cambodian rejected for admission to the United States who can demonstrate new or additional evidence relating to his claim should have his or her case reviewed;

(3) the United States should work with the United Nations High Commissioner for Refugees, the International Committee of the Red Cross, and the Government of Thailand to improve the security of all refugee facilities in Thailand and to prevent the forced repatriation of Cambodian refugees;

(4) the United States should treat with utmost seriousness the continued reports of forced repatriations to Laos of would-be asylum seekers, and should lodge strong and continuous protests with the Thai Government to bring about an end to these repatriations, which endanger the life and safety of those involuntarily returned to Laos; and

(5) within the Orderly Departure Program the United States will give high priority consideration to determining the eligibility of serious health cases and cases involving children separated from both parents.

SEC. 907. RELEASE OF YANG WEI.

(a) FINDINGS.—The Congress makes the following findings:

(1) Yang Wei, a Chinese national, studied at the University of Arizona from 1983 until he received his masters of science degree in microbiology in 1986.

(2) In May 1986 Yang Wei returned to China to marry Dr. Che Shaoli and arrange for funding for his continued studies under a PhD program at the University of Arizona.

(3) On January 11, 1987, while still an official student at the University of Arizona, Yang Wei was arrested by the Shanghai Public Security Bureau.

(4) Yang Wei has been held without charge or trial since January 11, 1987.

(5) Mr. Yang's wife, a student at Baylor Medical College in Houston, Texas, has been refused any information about her husband's whereabouts or condition by Chinese authorities.

(6) Mr. Yang's father, Yang Jue, and his mother Bi Shuyun, have been denied all contact with their son.

(7) The Chinese Criminal Procedure law of 1979, sections 92, 97, 125, and 142 provides for a maximum of four and a half months of detention without charge or trial and Yang Wei has now been held over six months, contrary to Chinese law.

(8) Yang Wei has not committed any crime under United States or Chinese law.

(9) Yang Wei and his wife only aspire to freedom and democracy.

(10) The treatment of Mr. Yang and his family is frightening to all Chinese students now studying in the West and meant to be so by Chinese authorities.

(11) Recently more than two thousand Chinese students signed an open letter to express their concern about recent political developments in their country.

(b) POLICY.—It is the sense of Congress that—

(1) the People's Republic of China should immediately release Yang Wei; and

(2) the United States should consider sympathetically applications for asylum from Chinese students studying in the United States who can, on a case-by-case basis, demonstrate a well-founded fear of persecution.

TITLE X—ANTI-TERRORISM ACT OF 1987 [75]

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TITLE XI—GLOBAL CLIMATE PROTECTION [76]

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[75] The text of title X, cited as the "Anti-Terrorism Act of 1987", may be found at page 463.

[76] The text of title XI, cited as the "Global Climate Protection Act of 1987", may be found in vol. IV, sec. L.

TITLE XII—REGIONAL FOREIGN RELATIONS MATTERS

PART A—SOVIET UNION AND EASTERN EUROPE

SEC. 1201. SOVIET BALLISTIC MISSILE TESTS NEAR HAWAII.

(a) FINDINGS.—The Congress finds that—

(1) the Union of Soviet Socialist Republics and the United States are presently negotiating a reduction of nuclear weapons and have recently concluded an agreement with respect to reducing the risks of accidental nuclear war;

(2) the Soviet Union has recently conducted two tests of its heavy intercontinental ballistic missiles over trajectories similar to those which could be used in actual attacks on the Hawaiian Islands;

(3) the announced impact points for reentry vehicles from these tests could have resulted in the overflight of sovereign United States territory, namely the Hawaiian Islands;

(4) the Soviet Union reportedly encrypted telemetry from the flight tests in potential violation of the provisions of bilateral arms control agreements;

(5) the Soviet Union used a directed energy device, believed to be a laser, to irradiate a United States military aircraft in international airspace that was monitoring the tests, having the potential effect of interfering with our national technical means of verification;

(6) had this test misfired, Soviet ballistic missile test reentry vehicles could have landed among the Hawaiian Islands; and

(7) the United States does not test strategic missiles in the direction of or in close proximity to sovereign Soviet territory.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) the actions of the Soviet Union in testing intercontinental ballistic missiles in the Hawaiian region and irradiating United States monitoring aircraft are provocative, unnecessary, and inconsistent with behavior designed to reduce the risk of nuclear war;

(2) the United States Government—

(A) should officially and at the highest levels protest these actions by the Soviet Union and should inform the Soviet Union that it cannot tolerate flight tests in close proximity to sovereign United States territory or interference with United States monitoring aircraft; and

(B) should seek Soviet assurances that such missile testing near United States territory and irradiation of United States territory and irradiation of United States aircraft will not occur in the future; and

(3) the President should, within 10 days of the date of enactment of this Act, report to the Congress in both classified and unclassified form, on—

(A) the details of these Soviet missile tests, including the irradiation of the United States monitoring aircraft;

(B) Soviet explanations offered in response to United States protests; and

(C) what steps will be taken to ensure that such activities will not happen in the future.

SEC. 1202. EMIGRATION OF JEWS AND OTHERS WHO WISH TO EMIGRATE FROM THE SOVIET UNION.

It is the sense of the Congress that the Government of the Soviet Union should—

(1) permit the emigration of Jews and others who wish to emigrate from the Soviet Union;

(2) remove restrictions on the practice of religion and the exercise of cultural rights; and

(3) cease the official harassment of individuals who wish to emigrate, practice their religion, exercise their cultural rights, or engage in free intellectual pursuits.

SEC. 1203. SYSTEMATIC NONDELIVERY OF INTERNATIONAL MAIL ADDRESSED TO CERTAIN PERSONS RESIDING WITHIN THE SOVIET UNION.

It is the sense of the Congress that—

(1) the President should express to the Government of the Soviet Union the disapproval of the United States regarding the systematic nondelivery of international mail; and

(2) at the Congress of the Universal Postal Union in Washington, District of Columbia, in 1989, the Department of State should bring to the attention of other member countries of the Universal Postal Union patterns of nondelivery of international mail by the Soviet Union contrary to the Acts of the Universal Postal Union and the delegation of the United States should ask other member countries to support the adoption of amendments to the Universal Postal Convention and other measures to encourage improved postal performance by the Soviet Union.

SEC. 1204. UNITED STATES POLICY AGAINST PERSECUTION OF CHRISTIANS IN EASTERN EUROPE AND THE SOVIET UNION.

It is the sense of the Congress that—

(1) the President should continue to express to the governments of the Union of Soviet Socialist Republics and Eastern European countries the deep concern and opposition of the United States with respect to the harassment of Christians and other religious believers;

(2) the governments of the Union of Soviet Socialist Republics and Eastern European countries should comply with their commitments under the United Nations Universal Declaration of Human Rights, the International Covenants on Human Rights, the Final Act of the Conference on Security and Cooperation in Europe, and the Madrid Concluding Document; and

(3) the governments of the Union of Soviet Socialist Republics and Eastern European countries should immediately cease persecuting individuals on the basis of their faith and should afford Christians and other believers their internationally recognized right to freedom of religion.

SEC. 1205. OBSERVANCE BY THE GOVERNMENT OF ROMANIA OF THE HUMAN RIGHTS OF HUNGARIANS IN TRANSYLVANIA.

The Congress deplores activities of the Government of the Socialist Republic of Romania restricting the internationally recognized human rights of Hungarians and other nationalities in Transylvania and elsewhere in Romania.

SEC. 1206. SELF-DETERMINATION OF THE PEOPLE FROM THE BALTIC STATES OF ESTONIA, LATVIA, AND LITHUANIA.

It is the sense of the Congress that—

(1) the continuing desire and right of the people of the Baltic States of Estonia, Latvia, and Lithuania for freedom and independence from the Soviet Union should be recognized; and

(2) the President should—

(A) direct world attention to the right of self-determination of the people of the Baltic States by issuing on July 26, 1988, a statement that officially informs all member nations of the United Nations of the support of the United States for self-determination of all peoples and nonrecognition of the forced incorporation of the Baltic States into the Soviet Union;

(B) call attention to violations of internationally recognized human rights in the Baltic States; and

(C) promote compliance with the human rights and humanitarian provisions of the Helsinki Final Act of the Conference on Security and Cooperation in Europe in the Baltic States.

SEC. 1207. ASSISTANCE IN SUPPORT OF DEMOCRACY IN POLAND.

(a) SUPPORT FOR SOLIDARITY.—It is the sense of the Congress that—

(1) Solidarity deserves special praise and recognition as the only free and independent trade union in Poland;

(2) Solidarity reflects the Polish people's desire for free and democratic institutions and activities; and

(3) Solidarity is one of the leading democratic representatives of the Polish working people.

(b) ASSISTANCE IN SUPPORT OF DEMOCRACY IN POLAND.—Notwithstanding any other provision of law, of the amounts authorized to be appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund) for fiscal year 1988, not less than $1,000,000 shall be available only for the unconditional support of democratic institutions and activities in Poland.

PART B—LATIN AMERICA AND CUBA

SEC. 1211. CUBAN HUMAN RIGHTS VIOLATIONS AND THE FAILURE OF THE UNITED NATIONS TO PLACE CUBA ON ITS HUMAN RIGHTS AGENDA.

(a) FINDINGS.—The Congress finds that—

(1) the Universal Declaration of Human Rights, which was adopted and proclaimed by the General Assembly of the United Nations, states in paragraph 2 of Article 13 that "Everyone has the right to leave any country, including his own, and to return to his country";

(2) the Universal Declaration of Human Rights states in Article 19 that "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions with-

out interference and to seek, receive, and impart information and ideas through any media regardless of frontiers";

(3) the Government of Cuba has violated the Cuban people's internationally recognized human rights, including freedom of movement, emigration, opinion, and expression;

(4) Cuban human rights violations are a major obstacle to improved United States-Cuban relations; and

(5) the United Nations Human Rights Commission has acted selectively in addressing human rights violations in various countries and has failed to place Cuba on its agenda despite overwhelming evidence of the continuing disregard and systematic abuse of internationally recognized human rights by the Government of Cuba.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) the Government of Cuba should respect internationally recognized human rights, including freedom of movement, emigration, opinion, and expression; and

(2) the United States delegation to the United Nations should continue its commendable efforts to bring this issue before the attention of the United Nations and to place Cuban human rights abuses on the agenda of the United Nations Human Rights Commission.

(c) DISTRIBUTION OF TEXT TO U.N. MEMBERS.—The Secretary of State shall cause the text of this section to be circulated by the United States among the members of the United Nations in order to highlight Cuba's behavior in violation of the Universal Declaration of Human Rights.

SEC. 1212.[77] PARTIAL LIFTING OF THE TRADE EMBARGO AGAINST NICARAGUA.

It is the sense of Congress that the President should exempt from the trade embargo against Nicaragua those items which would benefit Nicaragua's independent print and broadcast media, private sector and trade union groups, nongovernmental service organizations, and the democratic civic opposition.

SEC. 1213. TERRORIST BOMBING IN HONDURAS.

(a) FINDINGS.—The Congress finds that—

(1) a terrorist bomb exploded on August 8, 1987, in the China Palace restaurant in Comayagua, Honduras;

(2) the bomb was directed at American soldiers and did in fact wound American soldiers and an American contractor;

(3) the United States military personnel were in Honduras assigned to Joint Task Force Bravo;

(4) Honduran authorities have named Alfonso Guerrero Ulloa as a suspect in this act of terrorism and have a warrant for his arrest;

(5) the Government of Mexico, contrary to accepted norms of international law on harboring terrorists, has granted asylum to Mr. Guerrero; and

(6) the United States Government has protested to the Government of Mexico.

(b) STATEMENT OF POLICY.—It is the sense of the Congress that—

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[77] For other legislation on Nicaragua, see vol. I, at page 618.

(1) the United States Congress deplores the harboring of international terrorists, and

(2) the United States Government should call upon the Government of Mexico to turn Mr. Guerrero over to the Government of Honduras.

SEC. 1214. HUMAN RIGHTS IN PARAGUAY.

(a) FINDINGS.—The Congress finds that—

(1) the Government of Paraguay systematically has violated the internationally recognized human rights of its citizens;

(2) various provisions of Paraguayan law provide for the detention of individuals without trial for an indefinite period of time;

(3) the police authorities in Paraguay arbitrarily arrest and detain individuals; and

(4) the police authorities have tortured and abused prisoners, resulting in the death of a number of detainees.

(b) SENSE OF CONGRESS.—The Congress expresses its outrage at the human rights abuses specified in subsection (a), pledges to continually speak out against all governments which commit such abuses, and urges the Government of Paraguay to respect the internationally recognized human rights of its citizens.

PART C—AFRICA

SEC. 1221. HUMAN RIGHTS IN ETHIOPIA.

(a) FINDINGS.—The Congress finds that—

(1) the Government of Ethiopia has systematically violated the internationally recognized human rights of its citizens;

(2) the Government of Ethiopia holds large numbers of political prisoners and regularly detains without trial many other political opponents of the government;

(3) the Government of Ethiopia engages in torture and ill-treatment of political prisoners;

(4) reliable reports indicate that many political opponents of the Government of Ethiopia "disappear" and that approximately sixty political prisoners were executed in October 1985 without benefit of trial; and

(5) over one million Ethiopians have fled the country.

(b) SENSE OF CONGRESS.—The Congress expresses its outrage at the human rights abuses specified in subsection (a), pledges to continually speak out against all governments which commit such abuses, and urges the Government of Ethiopia to respect the internationally recognized human rights of its citizens.

SEC. 1222. UNITED STATES POLICY ON ANGOLA.

(a) FINDINGS.—The Congress finds that—

(1) it is in the interest of peace and economic development in southern Africa for the President and the Secretary of State to discuss the conflict in Angola with Soviet leaders;

(2) the President has stated that the resolution of regional conflicts such as Angola, Afghanistan, and Nicaragua is critical to improvements in Soviet-American relations;

(3) the proposed summit between President Reagan and Secretary General Gorbachev provides the United States with an

opportunity to encourage complete Soviet-Cuban withdrawal from Angola, the possible provision of humanitarian assistance, and the holding of free and fair elections;

(4) the Marxist regime in Angola known as the Popular Movement for Liberation of Angola (hereafter in this section referred to as the "MPLA") is currently launching a major dry-season offensive against the opposition involving thousands of Cuban troops and billions of dollars in sophisticated Soviet weaponry;

(5) the people of Angola are starving because of the hardships resulting from 12 years of civil war and inefficient Marxist economic policies;

(6) the MPLA regime has turned to the international community for substantial food aid while continuing to spend most of Angola's national budget on sustaining the war effort, including payments for Cuban troops and Soviet arms; and

(7) the growing intensity of the war, the starvation and mounting suffering of the Angolan people, the continued presence in Angola of 37,000 Cuban combat troops and South African forces, the continued presence and active involvement of 2,500 Soviet military advisers, and the refusal of the MPLA to negotiate with the opposition, increase the urgency of reaching a peaceful solution.

(b) POLICY.—It is the sense of the Congress that—

(1) the United States should continue to work toward a peaceful resolution to the Angolan conflict that includes—

(A) the complete withdrawal of all foreign forces and Soviet military advisers;

(B) a negotiated settlement to the 12-year conflict leading to the formation of a government of national unity and the holding of free and fair elections; and

(C) efforts by the President and the Secretary of State to convey to Soviet leaders at the proposed summit and in other meetings that the aggressive military build-up in Angola undermines positive bilateral relations and that the United States is committed to supporting democratic forces in Angola until democracy is achieved;

(2) the people of Angola should not be left to starve because of the MPLA regime;

(3) the United States should consider responding to the humanitarian needs of the Angolan people, and if humanitarian assistance is provided, such assistance should be distributed in an evenhanded manner, so that Angolans throughout the entire war-torn country are provided with food and basic medical care;

(4) any humanitarian assistance should be distributed through private and voluntary organizations or nongovernmental organizations; and

(5) within 180 days after the date of the enactment of this Act, the Secretary of State should prepare and transmit to the Congress a report detailing the progress of discussions between the Soviet Union and the United States on the conflict in Angola.

SEC. 1223. FORCED DETENTION BY THE AFRICAN NATIONAL CONGRESS AND THE SOUTH AFRICAN GOVERNMENT.

Not later than 90 days after the date of enactment of this Act, the Secretary of State shall submit a report to the Congress on any detention camps maintained by the African National Congress and on detention in South Africa since the South African Government enacted a State of Emergency in June 1986.

SEC. 1224. DETENTION OF CHILDREN IN SOUTH AFRICA.

(a) FINDINGS.—The Congress finds that—

(1) the Government of the Republic of South Africa under its system of apartheid repeatedly has detained black children without charge or trial, and has denied parental access to these children for extended periods of time;

(2) the Detainees' Parents' Support Committee of South Africa has compiled information estimating that more than 25,000 people were detained since June 12, 1986, under state of emergency regulations, and approximately 10,000 of these were children, including some as young as age 10;

(3) the Government of the Republic of South Africa has stated on numerous occasions that it has detained children without charge, and that on a certain day in December 1986, 256 children under the age of 16 were in detention; that on a certain day in February 1987, 281 children under the age of 15 were in detention; that on a certain day in April 1987, 1,424 children under the age of 18 were in detention; and that on a certain day in May 1987, 280 children under the age of 16 were in detention; and that as of June 2, stated that eleven children under the age of 16 were in detention; and as of October, 69 children under the age of 18 are still in detention; and

(4) human rights groups in South Africa estimate that many more children have been detained under state of emergency regulations than the Government of the Republic of South Africa admits;

(5) the state of emergency regulations allow for the detention of individuals without charge for an indefinite period of time; and

(6) the United States Ambassador to South Africa Edward J. Perkins has stated that such detentions are "a most serious abuse of human rights, particularly so where detainees are children as young as 11".

(b) POLICY.—The Congress hereby—

(1) calls for the cessation of the practice of detaining children under 18 years of age without charge or trial in South Africa;

(2) calls for the South African Government either to release all children in South Africa held under state of emergency regulations and other laws which authorize detention without charge or, in those cases where an internationally recognized criminal act has allegedly been committed, charge them and allow them their rights of a fair and public trial;

(3) pending the release of the children, calls on the Government of the Republic of South Africa to—

(A) permit the detained children immediate and frequent access to parents and legal counsel;

(B) make public the names and locations of all the detained children;

(C) provide the detained children with adequate food, clothing, and protection; and

(D) permit a recognized, independent, and impartial international humanitarian organization to verify that the provisions of this section are being carried out and that the detained children are not being abused, tortured, or held in solitary confinement, and are not being held in detention in the company of adults; and

(4) calls for the apprehension and trial of all those individuals who execute children by violent activities, including necklacing, and the cessation of these activities.

PART D—MIDDLE EAST

SEC. 1231. MIDDLE EAST PEACE CONFERENCE.

(a) FINDINGS.—The Congress finds that—

(1) the General Assembly of the United Nations recognized the sovereignty of the State of Israel through Resolution 181 of 1947 and the right of all Israeli citizens to live within secure and recognized boundaries through Resolutions 242 and 338 of 1973;

(2) the Government of the Soviet Union severed diplomatic relations with the State of Israel in 1967 and has opposed every recent United States initiative for direct, bilateral negotiations among the warring parties of the Middle East including the Camp David accords of 1979 and the Reagan plan of 1982;

(3) the Government of the Soviet Union has further demonstrated its lack of respect for the integrity of the Israeli state by systematically denying exit visas to Soviet Jews who wish to live and work in the State of Israel; and

(4) a permanent and equitable settlement of the Middle Eastern conflict can result only from agreements between the Arab States and Israel.

(b) POLICY.—It is the sense of the Congress that the United States should not actively encourage the participation of the Soviet Union in any conference, meeting, or summit on the Arab-Israeli conflict which includes nations other than those in the Middle East unless the Government of the Soviet Union has either—

(1)(A) reestablished diplomatic relations with the State of Israel at the ambassadorial level;

(B) publicly reaffirmed its acceptance of United Nations Resolutions 242 and 338; and

(C) substantially increased and maintained the number of exit visas granted to Jewish individuals and families within the Soviet Union who have applied for emigration to the State of Israel; or

(2) been jointly invited by the governments of the states in the region involved in the talks.

SEC. 1232. UNITED STATES POLICY TOWARD LEBANON.

(a) FINDINGS.—The Congress makes the following findings:

(1) After nearly 13 years of civil conflict and foreign intervention, the situation in Lebanon appears no closer to resolution.

(2) Through most of the last dozen years, the Lebanese have managed to continue economic activity sufficient to stave off economic collapse and provide its citizens with basic necessities.

(3) During the past year, however, the collapse in the value of the Lebanese pound from less than 40 to the dollar to nearly 300 has made the importation of wheat, rice, and other basic commodities prohibitively expensive.

(4) As a result, for the first time, the Lebanese are faced with the prospect of starvation.

(5) Hizballah and other radical elements are taking advantage of the current economic crisis by providing foreign supplied food. In so doing, they are winning converts to their cause and radicalizing the youth.

(6) It is in the interest of the United States to support the traditional Lebanese free enterprise system of distribution of food which until now has been able to compete successfully with these radical movements.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the United States should base its policy toward Lebanon on the following principles:

(1) Preservation of the unity of Lebanon.

(2) Withdrawal of all foreign forces from Lebanon.

(3) Recognition of and respect for the territorial integrity of Lebanon.

(4) Reassertion of Lebanese sovereignty throughout the nation and recognition that it is the responsibility of the Government of Lebanon for its safekeeping.

(5) Reestablishment of the authority of the Government of Lebanon throughout the nation is a prerequisite for a lasting solution to the problem of international terrorism emanating from Lebanon.

(c) FURTHER SENSE OF CONGRESS.—It is the further sense of Congress that the provision of at least 200,000 tons of wheat and 30,000 tons of rice through Public Law 480, title I and section 416 of the Agriculture Act of 1949 to the Government of Lebanon is in the interest of the United States. Provision of this assistance will meet the United States policy objective of strengthening the Central Government as well as helping alleviate a serious hunger problem.

SEC. 1233. ACTING IN ACCORDANCE WITH INTERNATIONAL LAW IN THE PERSIAN GULF.

(a) FINDINGS.—The Congress makes the following findings:

(1) According to Article 2 of the 1958 Geneva Convention on the High Seas, every state is entitled to exercise free and open use of the high seas for the navigation of its vessels.

(2) On September 22, 1987, United States Navy forces discovered the Iranian ship Iran Ajr laying mines in international waters of the Persian Gulf, and fired upon that ship to help terminate the mining.

(3) On September 23, 1987, President Reagan declared that this United States action was "authorized by law", and a statement was issued by the State Department that the United States had the right under international law to use "reasonable and proportionate force" to terminate the mining.

(b) POLICY.—It is the sense of the Congress that—

(1) by mining the high seas of the Persian Gulf without notifying nonbelligerent nations engaged in maritime commerce, the Government of Iran violated international law;

(2) the use of force by the United States Navy to terminate that Iranian mining was justified under international law; and

(3) fostering broader adherence to international law promotes the security interests of the United States.

SEC. 1234. UNITED STATES POLICY TOWARD THE IRAN-IRAQ WAR.

(a) FINDINGS.—The Congress finds that—

(1) the continuation of the Iran-Iraq war threatens the security and stability of all states in the Persian Gulf;

(2) stability in the Persian Gulf and the flow of oil is critical to world trade and the economic health of the West;

(3) the conflict between Iran and Iraq threatens United States strategic and political interests in the region;

(4) the conflict threatens international commercial shipping interests and activities; and

(5) the Iran-Iraq war has continued seven years with more than 1,500,000 casualties.

(b) POLICY.—The Congress declares it to be the policy of the United States consistent with United Nations Security Council Resolution 598—

(1) to support the withdrawal of both Iran and Iraq to internationally recognized boundaries;

(2) to support an immediate cease-fire;

(3) to endorse the peaceful resolution of this conflict under the auspices of the United Nations;

(4) to encourage all governments to refrain from providing military supplies to any party which refuses to abide by United Nations Security Council Resolution 598;

(5) to recognize that stability and security in the Persian Gulf will only be achieved if Iran and Iraq are at peace and agree not to interfere in the affairs of other nations through military action or the support of terrorism; and

(6) to urge strict observance of international humanitarian law by both sides and to support financially the International Committee of the Red Cross' special appeal for prisoners of war.

SEC. 1235. IRAN HUMAN RIGHTS VIOLATIONS.

(a) FINDINGS.—The Congress finds that—

(1) the United Nations has passed nine resolutions condemning the violation of human rights in Iran;

(2) the United Nations Subcommission on Prevention of Discrimination and Protection of Minorities stressed in Resolution 1987-12 that to date, more than two-hundred thousand Iranians have been imprisoned, tortured or executed because of their beliefs;

(3) the United Nations Commission on Human Rights confirms seven thousand executions in Iran between 1978 and 1985, and attests that the actual number is probably much higher;

(4) despite the persistent requests over the past six years by the United Nations and by many human rights organizations that the Iranian Government allow a special representative of the United Nations Security Council to inspect Iranian prisons and to determine the true extent of torture in Iran, such requests have been ignored by the Iranian Government;

(5) executions, including executions of children and members of religious minorities, still take place in Iran;

(6) the Khomeini government has brought the domestic economy of Iran to the brink of ruin by pouring the resources of the country into war making;

(7) Iran has rejected all proposals to end the seven year Iran-Iraq war;

(8) Iran has not responded positively to United Nations Security Council Resolution 598 which calls for an end to the Iran-Iraq war;

(9) the Khomeini government continues to attack and intimidate the other countries of the Persian Gulf region; and

(10) it is known that the Khomeini government supports terrorism and has used hostage taking as an instrument of foreign policy.

(b) POLICY.—Now, therefore, the Congress—

(1) expresses concern for those citizens who must endure war and unprecedented repression;

(2) supports an official United States policy of completely halting the shipment of any kind of armament to the Government of Iran; and

(3) urges that the President continue to make every effort to cooperate with the other nations of the United Nations to bring about an end to government sponsored torture in Iranian prisons, to pressure Iran to permit inspection of Iranian prisons by an international delegation, and to respect internationally recognized human rights.

SEC. 1236. IRANIAN PERSECUTION OF THE BAHA'IS.

(a) POLICY.—It is the sense of the Congress that—

(1) the Government of Iran has systematically discriminated against the Baha'i community, including the arbitrary detention, torture, and killing of Baha'is, the seizure of Baha'i property, and the outlawing of the Baha'i faith; and

(2) Iran's gross violations of the human rights of the Baha'i community are in direct contravention of the Charter of the United Nations and the United Nations Declaration of Human Rights.

(b) IMPLEMENTATION OF POLICY.—It is the sense of Congress that the President shall take all necessary steps to focus international attention on the plight of the Baha'i community and to bring pressure to bear on the Government of Iran to cease its insidious policy of persecution.

PART E—ASIA

SEC. 1241. SOVIET OCCUPATION OF AFGHANISTAN.

(a) FINDINGS ON SOVIET ACTIONS IN AFGHANISTAN.—The Congress finds that—

(1) the Soviet Union has been waging war against the people of Afghanistan since the invasion of December 25, 1979;

(2) the victims of the Soviet invasion and occupation include more than 1,000,000 dead and more than 3,000,000 Afghans forced to find refuge in neighboring countries;

(3) Soviet military tactics have included the bombing and napalming of villages without regard to the human toll, the destruction of crops, agricultural land, and orchards so as to create famine conditions, and the massacre of hostages and other innocent civilians;

(4) children have been particular victims of Soviet aggression, with some being targeted for death by the dropping of booby-trapped toys while other children have been transported to the Soviet Union for indoctrination;

(5) the Soviet-installed puppet regime has engaged in a consistent pattern of gross violations of the human rights of its own citizens, including torture and summary execution, for which its Soviet sponsors must also be held accountable; and

(6) Soviet actions in Afghanistan constitute a violation of international law and of accepted norms of human decency and, therefore, must be condemned by civilized people everywhere.

(b) FINDINGS ON THE AFGHAN RESISTANCE.—The Congress further finds that—

(1) the Afghan people have heroically resisted the Soviet invaders in spite of the tremendous cost of so doing and now control most of their homeland;

(2) the provision of effective assistance to the Afghan people is an obligation of those who cherish freedom;

(3) a total and prompt withdrawal of all Soviet forces from Afghanistan is essential in order for the Afghan people to exercise their inalienable human right to self-determination; and

(4) a negotiated settlement providing for the total and prompt withdrawal of Soviet forces offers the best prospect for an early end to the suffering of the Afghan people.

(c) DECLARATION OF POLICY.—The Congress, therefore, declares it to be the policy of the United States—

(1) to provide such assistance to the Afghan people as will most effectively help them resist the Soviet invaders;

(2) to support a negotiated settlement to the Afghanistan war providing for the prompt withdrawal of all Soviet forces from Afghanistan within a time frame based solely on logistical criteria; and

(3) to communicate clearly to the Government and people of the Soviet Union the necessity of a Soviet withdrawal from Afghanistan as a condition for better relations between the United States and the Soviet Union.

(d) PROVISION OF ASSISTANCE.—The President and Secretary of State are directed to adopt policies and programs to ensure that all assistance intended for the Afghan people reaches its intended recipients and that theft or diversion of such assistance not be tolerated.

SEC. 1242. REPORT ON ADMINISTRATION POLICY ON AFGHANISTAN.

(a) FINDINGS.—The Congress finds that—

(1) each of the substantive sanctions imposed on the Soviet Union by the United States to protest the Soviet invasion of Afghanistan have been lifted;

(2) although the administration's policy on Afghanistan states that only "steadily increasing pressure on all fronts—military, political, diplomatic—will induce the Soviets to make the political decision to negotiate the withdrawal of their forces", political and diplomatic pressures on the Soviet Union have decreased rather than increased;

(3) in the absence of a coordinated and aggressive policy by the administration regarding the war in Afghanistan, the Congress has been forced to unilaterally implement numerous programs to bring "steadily increasing pressure" to bear on the Soviet Union; and

(4) despite the failure of Soviet troops to withdraw from Afghanistan, and the serious deterioration with regard to the situation of human rights in Afghanistan, the administration is planning to lift further sanctions and initiate increasing areas of cooperation with the Soviet Union.

(b) REPORT TO CONGRESS.—(1) Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall provide the chairman of the Senate Foreign Relations Committee and the chairman of the House Foreign Affairs Committee with a report listing each sanction imposed against the Soviet Union by the United States since the first anniversary of the Soviet invasion of Afghanistan, a detailed explanation for the lifting of each sanction, and a detailed analysis of the benefit to the Soviet Union incurred by the lifting of each sanction.

(2) Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall provide the chairman of the Senate Foreign Relations Committee and the chairman of the House Foreign Affairs Committee a comprehensive list of all areas of ongoing cooperation that could be withheld from the Soviet Union.

(3) Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall provide the chairman of the Senate Foreign Relations Committee and the chairman of the House Foreign Affairs Committee with a detailed and comprehensive report in a suitably classified form, and in an unclassified form, containing the disposition of Soviet military forces in the Afghanistan region and an account of any troop withdrawals and any new troop deployments.

SEC. 1243. HUMAN RIGHTS VIOLATIONS IN TIBET BY THE PEOPLE'S REPUBLIC OF CHINA.

(a) FINDINGS.—The Congress finds that—

(1) on October 1, 1987, Chinese police in Lhasa fired upon several thousand unarmed Tibetan demonstrators, which in-

cluded hundreds of women, children, and Tibetan Buddhist monks, killing at least six and wounding many others;

(2) on September 27, 1987, a peaceful demonstration in Lhasa calling for Tibetan independence and the restoration of human rights in Tibet, which was led by hundreds of Tibetan monks, was violently broken up by Chinese authorities and 27 Tibetan Buddhist monks were arrested;

(3) in the wake of His Holiness the Dalai Lama's five point peace plan, which was presented to Members of the United States Congress during his visit to Washington in September 1987, Chinese authorities in Tibet staged, on September 24, 1987, a mass political rally at which three Tibetans were given death sentences, two of whom were executed immediately;

(4) beginning October 7, 1950, the Chinese Communist army invaded and occupied Tibet;

(5) since that time, the Chinese Government has exercised dominion over the Tibetan people, who had always considered themselves as independent, through the presence of a large occupation force;

(6) over 1,000,000 Tibetans perished from 1959 to 1979 as a direct result of the political instability, executions, imprisonment, and widescale famine engendered by the policies of the People's Republic of China in Tibet;

(7) after 1950, particularly during the ravages of China's Cultural Revolution, over 6,000 monasteries, the repositories of 1,300 years of Tibet's ancient civilization, were destroyed and their irreplaceable national legacy of art and literature either destroyed, stolen, or removed from Tibet;

(8) the exploitation of Tibet's vast mineral, forest, and animal reserves has occurred with limited benefit to the Tibetan people;

(9) Tibet's economy and education, health, and human services remain far below those of the People's Republic of China as a whole;

(10) the People's Republic of China has encouraged a large influx of Han-Chinese into Tibet, thereby undermining the political and cultural traditions of the Tibetan people;

(11) there are credible reports of many Tibetans being incarcerated in labor camps and prisons and killed for the nonviolent expression of their religious and political beliefs;

(12) His Holiness the Dalai Lama, spiritual and temporal leader of the Tibetan people, in conjunction with the 100,000 refugees forced into exile with him, has worked tirelessly for almost 30 years to secure peace and religious freedom in Tibet, as well as the preservation of the Tibetan culture;

(13) in 1959, 1961, and 1965, the United Nations General Assembly called upon the People's Republic of China to end the violations of Tibetans' human rights;

(14) on July 24, 1985, 91 Members of the Congress signed a letter to President Li Xiannian of the People's Republic of China expressing support for direct talks between Beijing and representatives of His Holiness the Dalai Lama and the Tibetans in exile, and urging the Government of the People's Republic of China "to grant the very reasonable and justified as-

pirations of His Holiness the Dalai Lama and his people every consideration";

(15) on September 27, 1987, the chairman and ranking minority member of the Senate Foreign Relations Committee, the chairman and ranking minority member of the House Foreign Affairs Committee, and the Co-Chairman of the Congressional Human Rights Caucus signed a letter to his Excellency Zhao Ziyang, the Prime Minister of the People's Republic of China, expressing their "grave concern with the present situation in Tibet and welcome(d) His Holiness the Dalai Lama's (five point) proposal as an historic step toward resolving the important question of Tibet and alleviating the suffering of the Tibetan people . . . (and) express(ing) their full support for his proposal."; and

(16) there has been no positive response by the Government of the People's Republic of China to either of these communications.

(b) STATEMENT OF POLICIES.—It is the sense of the Congress that—

(1) the United States should express sympathy for those Tibetans who have suffered and died as a result of fighting, persecution, or famine over the past four decades;

(2) the United States should make the treatment of the Tibetan people an important factor in its conduct of relations with the People's Republic of China;

(3) the Government of the People's Republic of China should respect internationally recognized human rights and end human rights violations against Tibetans;

(4) the United States should urge the Government of the People's Republic of China to actively reciprocate the Dalai Lama's efforts to establish a constructive dialogue on the future of Tibet;

(5) Tibetan culture and religion should be preserved and the Dalai Lama should be commended for his efforts in this regard;

(6) the United States, through the Secretary of State, should address and call attention to the rights of the Tibetan people, as well as other non-Han-Chinese within the People's Republic of China such as the Uighurs of Eastern Turkestan (Xinjiang), and the Mongolians of Inner Mongolia;

(7) the President should instruct United States officials, including the United States Ambassadors to the People's Republic of China and India, to pay greater attention to the concerns of the Tibetan people and to work closely with all concerned about human rights violations in Tibet in order to find areas in which the United States Government and people can be helpful; and

(8) the United States should urge the People's Republic of China to release all political prisoners in Tibet.

(c) TRANSFER OF DEFENSE ARTICLES.—With respect to any sale, licensed export, or other transfer of any defense articles or defense services to the People's Republic of China, the United States Government shall, consistent with United States law, take into account the extent to which the Government of the People's Republic of

China is acting in good faith and in a timely manner to resolve human rights issues in Tibet.

(d) MIGRATION AND REFUGEE ASSISTANCE.—Within 60 days after the date of the enactment of this Act, the Secretary of State shall determine whether the needs of displaced Tibetans are similar to those of displaced persons and refugees in other parts of the world and shall report that determination to the Congress. If the Secretary makes a positive determination, of the amounts authorized to be appropriated for the Department of State for "Migration and Refugee Assistance" for each of the fiscal years 1988 and 1989, such sums as are necessary shall be made available for assistance for displaced Tibetans. The Secretary of State shall determine the best means for providing such assistance.

(e) SCHOLARSHIPS.—For each of the fiscal years 1988 and 1989, the Director of the United States Information Agency shall make available to Tibetan students and professionals who are outside Tibet not less than 15 scholarships for study at institutions of higher education in the United States.

SEC. 1244. SUPPORT FOR THE RIGHT OF SELF-DETERMINATION FOR THE CAMBODIAN PEOPLE.

(a) FINDINGS.—The Congress finds that—

(1) the Socialist Republic of Vietnam, in violation of its obligations under international law including the United Nations Charter, invaded Cambodia in December 1978;

(2) in January 1979, Vietnam installed a puppet government in Phnom Penh, Cambodia, headed by Heng Samrin;

(3) eight years later Vietnam continues, with Soviet backing, to occupy Cambodia with some 140,000 troops;

(4) by invading and occupying Cambodia, the Government of the Socialist Republic of Vietnam violated its obligation, undertaken upon becoming a member of the United Nations in 1977, not to use force against the territorial integrity or political independence of any state;

(5) Vietnam has attempted to submerge Cambodian culture and heritage through the settlement of large numbers of Vietnamese in Cambodia;

(6) human rights observers have noted a pattern of torture, political detention, inhumane treatment, and other abuses of human rights by officials of the Vietnamese-backed puppet Cambodian regime;

(7) the Vietnamese occupation of Cambodia has compounded the hardship and suffering of a people which had previously suffered barbaric crimes of genocide under Pol Pot's Khmer Rouge and has caused hundreds of thousands of Cambodians to flee their own country;

(8) in recognition of the illegal occupation of Cambodia by the Vietnamese, the United Nations has refused to recognize the credentials of the Heng Samrin regime and has instead continued to recognize the credentials of the Government in Exile led by Prince Norodom Sihanouk;

(9) the member states of the United Nations for the eighth time, and by a record vote, approved a resolution at the forty-

second session of the General Assembly calling for the withdrawal of foreign troops from Cambodia;

(10) the 1981 United Nations-sponsored International Conference on Kampuchea called for the early withdrawal of foreign troops and the holding of free elections under United Nations supervision;

(11) the Government of the Socialist Republic of Vietnam has thus far rejected the efforts of the Association of Southeast Asian Nations and supported by the United States to resolve the situation in Cambodia; and

(12) in the absence of a settlement, the non-Communist Cambodian forces continue to wage a war of resistance against Vietnamese occupation forces.

(b) STATEMENT OF POLICY.—The Congress—

(1) deplores the continued violation of the sovereignty and territorial independence of Cambodia by the Socialist Republic of Vietnam;

(2) calls upon the Government of the Socialist Republic of Vietnam to immediately withdraw all of its occupation forces from Cambodia and to negotiate a settlement which restores self-determination to the Cambodian people;

(3) believes that such negotiations and withdrawal by Vietnam, together with a satisfactory accounting of Americans still missing in action, would constitute positive steps that would help facilitate the prospect of an end to Vietnam's isolation in the world community and an improvement of its relations with the United States;

(4) supports the efforts of the member nations of the Association of Southeast Asian Nations (ASEAN), the United Nations Secretary General, and the non-Communist Cambodian people to achieve a political settlement which would include such elements as internationally supervised free and fair elections, as well as assurances that there will be no return to the genocidal policies of the Pol Pot regime;

(5) supports efforts to establish an international tribunal to bring to justice those Khmer Rouge leaders during the reign of Pol Pot, and any others, responsible for crimes of genocide against the Cambodian people; and

(6) calls upon the international community to observe a special day of remembrance—

(A) in recognition of the suffering of the Cambodian people under Pol Pot,

(B) in protest of the efforts of Vietnam to suppress the basic human rights, culture, and way of life of the Cambodian people, and

(C) in protest of the illegal occupation of Cambodia by Vietnamese troops.

SEC. 1245. HUMAN RIGHTS IN THE PEOPLE'S REPUBLIC OF CHINA.

(a) FINDINGS.—The Congress finds that—

(1) the advancement of human rights is a stated objective of the foreign policy of the United States;

(2) the constitutional guarantees of freedom of speech, press, and peaceful assembly have not been adequately respected in the People's Republic of China;

(3) the exercise of religious activities has a detrimental effect on a participant's civil, social, and economic status within the People's Republic of China;

(4) the freedom of movement and the freedom to form independent trade unions and other voluntary associations are severely curtailed;

(5) there have been some encouraging developments including an effort by the current leadership of the People's Republic of China to develop economic policies without regard to a rigid application of Maoist ideology; and

(6) the American people desire to extend their moral support to the struggle for freedom and justice within the People's Republic of China.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the leadership of the People's Republic of China should take necessary steps toward establishing a more democratic society, with a free and open political system that will protect the essential human rights of all people living within that country.

SEC. 1246. DEMOCRACY IN TAIWAN.

(a) FINDINGS.—The Congress finds that—

(1) stability and peace prevail on the island of Taiwan and in the Western Pacific region;

(2) economic vitality, educational advancement, and social progress have created conditions favoring the furtherance of democracy in Taiwan;

(3) the people of Taiwan, in both national and local elections, have shown themselves fully capable of participating in a democratic political process;

(4) the authorities on Taiwan are nurturing a transition toward more truly democratic and representative political institutions, although a minority of the seats in the central legislature and central electoral college are filled through periodic elections, with the majority of seats still being held by individuals who took office in the late 1940s;

(5) on September 28, 1986, Taiwan's democratic opposition announced the formation of the Democratic Progressive Party;

(6) on October 7, 1986, President Chiang Ching-kuo, announced that the Kuomintang intended to end the state of martial law and to lift the ban on the creation of new political parties;

(7) the lifting of martial law in July and the release of detainees symbolize the growing respect for human rights and freedom of expression on Taiwan;

(8) the Kuomintang has indicated a desire over the next few years to make more representative Taiwan's central representative bodies, to broaden decisionmaking within the Nationalist Party, to enhance the rule of law, and to increase the powers of local-level government; and

(9) our common commitment to democratic institutions and values is an increasingly strong bond between the people of the

United States and the people of Taiwan and an acceleration of progress toward a full democracy on Taiwan, including full respect for human rights, will strengthen United States ties with the people on Taiwan.

(b) SENSE OF CONGRESS.—The Congress—

(1) welcomes the democratic trends emerging in Taiwan and commends the progress that has been made recently in advancing democratic institutions and values;

(2) welcomes the lifting of martial law and looks forward to the lifting of the ban on new political parties;

(3) encourages the leaders and peoples of Taiwan to continue this process with the aim of consolidating fully democratic institutions, in particular by—

(A) guaranteeing freedom of speech, expression, and assembly; and

(B) gradually moving toward a fully representative government, including the free and fair election of all members of all central representative bodies; and

(4) requests the American Institute in Taiwan to convey this Nation's continuing support for a democratic and prosperous Taiwan, as stated in the Taiwan Relations Act, and our encouragement for democracy to the leaders and the people of Taiwan.

PART F—MISCELLANEOUS

SEC. 1251. REPORT ON ILLEGAL TECHNOLOGY TRANSFERS.

(a) REPORT.—Not later than 30 days after the date of the enactment of this Act, the Secretary of State shall submit to the appropriate committees of the Congress a report concerning:

(1) The status of the Japanese Government investigation of the transfer of milling machines to the Soviet Union by Toshiba Machine Company, including any prosecution, fine, or other government action.

(2) The status of the Norwegian Government investigation of the transfer of numerical controllers by Kongsberg Vappenfabrik (KV) to the Soviet Union, including any prosecution, fine, or other government action.

(3) Actions undertaken by the Japanese and Norwegian Governments to ensure that such transfers or other breaches of security related to international espionage do not recur.

(4) Actions and plans of the United States Government to respond to such cases of international espionage.

(b) DISCUSSIONS.—The Secretary of State shall enter into discussions with Japan and Norway regarding compensation for damage to United States national security resulting from such cases of international espionage. The Secretary shall submit a preliminary report to the appropriate committees of the Congress concerning the status of such discussions 180 days after the date of enactment of this Act and shall submit a final report 360 days after the date of enactment of this Act. The Secretary may submit such other subsequent reports as may be appropriate.

SEC. 1252. REPORT ON PROGRESS TOWARD A WORLD SUMMIT ON TERRORISM.

It is the sense of the Congress that the President should convene a summit meeting of Western world leaders to adopt a unified effective program against international terrorism.

SEC. 1253. PROTECTION OF AMERICANS ENDANGERED BY THE APPEARANCE OF THEIR PLACE OF BIRTH ON THEIR PASSPORTS.

(a) Findings.—The Congress finds that some citizens of the United States may be specially endangered during a hijacking or other terrorist incident by the fact that their place of birth appears on their United States passports.

(b) Discussions.—The Congress urges the President to enter into discussions with other countries regarding the feasibility of a general agreement permitting the deletion of the place of birth as a required item of information on passports.

SEC. 1254. SUPPORT OF MUTUAL DEFENSE ALLIANCES.

(a) Findings.—The Congress makes the following findings:

(1) Japan, the member nations of the North Atlantic Treaty Organization (NATO), and other countries rely heavily on the United States to protect their national security under mutual defense alliances.

(2) The United States spends tens of billions of dollars annually to assist in the defense of allies of the United States.

(3) The financial burden of mutual defense assumed by many NATO allies and particularly Japan is not commensurate with their economic resources, and, as a result, the United States bears a disproportionately large share of the financial burden of supporting such mutual defense.

(4) While the United States is currently spending 6.5 percent of its gross national product on defense, our NATO allies spend an average of 3.5 percent of their gross national products on defense and Japan spends only 1.0 percent of its gross national product on defense.

(5) United States allies, particularly West Germany and Japan, have derived tremendous economic benefit from the free trade system among the Western countries, accumulating in certain cases large payments surpluses, while protected through military alliances to which the United States has made an overwhelming commitment of resources.

(6) The greatest weakness in the ability of the United States to sustain the mutual defense of the United States and its allies is not the military capability of the United States, but rather the economic vulnerability of the United States.

(7) The Federal budget deficit must be reduced in order to revitalize the economy.

(8) The continued unwillingness of the allies of the United States to increase their contributions to the common defense to more appropriate levels could weaken the long-term vitality, effectiveness, and cohesion of the alliances between those countries and the United States.

(b) Policy.—It is the sense of the Congress that—

(1) the President should enter into discussions with countries which participate in mutual defense alliances with the United

States, especially the member nations of NATO and Japan, for the purpose of reaching an agreement on a more equitable distribution of the burden of financial support for the alliances;

(2) the objective of such discussions with the member nations of NATO and Japan should be to establish a schedule of increases in defense spending by our NATO allies and Japan or a system of offsetting payments that is designed to achieve, to the maximum practicable extent, a division of responsibility for defense spending between those allies and the United States that is commensurate with their resources;

(3) the President should report to the Congress, within one year after the date of the enactment of this Act, on the progress of such discussions; and

(4) if, in the judgment of the Congress, the President's report does not reflect substantial progress toward a more equitable distribution of defense expenses among the members of a mutual defense alliance, the Congress should review the extent of the distribution of the mutual defense burden among our allies and consider whether additional legislation is appropriate.

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TITLE XIII—EFFECTIVE DATE

SEC. 1301. EFFECTIVE DATE.

Except as otherwise provided in this Act, this Act shall take effect on the date of its enactment.

b. Foreign Relations Authorization Act, Fiscal Years 1986 and 1987

Partial text of Public Law 99-93 [H.R. 2068], 99 Stat. 405, approved August 16, 1985; as amended by Public Law 99-399 [Omnibus Diplomatic Security and Antiterrorism Act of 1986, H.R. 4151], 100 Stat. 868, approved August 27, 1986; Public Law 100-202 [Continuing Appropriations for 1988, H.J. Res. 395], 101 Stat. 1329, approved December 22, 1987; and by Public Law 100-204 [Foreign Relations Authorization Act, Fiscal Years 1988 and 1989, H.R. 1777], 101 Stat. 1331, approved December 22, 1987

NOTE.—Sections in this Act amend other State Department and foreign relations legislation and are incorporated elsewhere in this compilation.

AN ACT To authorize appropriations for fiscal years 1986 and 1987 for the Department of State, the United States Information Agency, the Board for International Broadcasting, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Foreign Relations Authorization Act, Fiscal Years 1986 and 1987".

(b) TABLE OF CONTENTS.—* * *

TITLE I—DEPARTMENT OF STATE

SEC. 101. AUTHORIZATIONS OF APPROPRIATIONS.

The following amounts are authorized to be appropriated for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States and for other purposes authorized by law:

(1) ADMINISTRATION OF FOREIGN AFFAIRS.—For "Administration of Foreign Affairs", $1,828,088,000 for the fiscal year 1986 [1] and $1,873,790,000 for the fiscal year 1987.[2]

(2) INTERNATIONAL ORGANIZATIONS AND CONFERENCES.—For "International Organizations and Conferences", $534,074,000 for the fiscal year 1986 [3] and $534,074,000 for the fiscal year 1987.[4]

(3) INTERNATIONAL COMMISSIONS.—For "International Commissions", $28,704,000 for the fiscal year 1986 [5] and $25,824,000 for the fiscal year 1987.[6]

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[1] The Department of State Appropriation Act, 1986 (Public Law 99-180) appropriated funds for fiscal year 1986 for the "Administration of Foreign Affairs" itemized in the following manner salaries and expenses—$1,455,000,000; reopening consulates—$1,700,000; representation allowances—$4,700,000; protection of foreign missions and officials—$9,500,000; A acquisition and maintenance of buildings abroad—$337,000,000; emergencies in the diplomatic and consular service—$4,400,000; payment to the American Institute in Taiwan—$9,800,000; payment to the Foreign Service Retirement and Disability Fund—$118,174,000.

The Urgent Supplemental Appropriations Act, 1987 (Public Law 99-349, 100 Stat. 716), also provided:

"ADMINISTRATION OF FOREIGN AFFAIRS

"SALARIES AND EXPENSES

"Notwithstanding section 15(a) of the State Department Basic Authorities Act of 1956, for an additional amount for 'Salaries and expenses', $283,104,000, to remain available until expended: *Provided,* That $222,104,000 of this amount shall become available for obligation on September 30, 1986.

"ACQUISITION AND MAINTENANCE OF BUILDINGS ABROAD

"Notwithstanding section 15(a) of the State Department Basic Authorities Act of 1956, for an additional amount for 'Acquisition and Maintenance of Buildings Abroad', to be available subject to the approval of the House and Senate Committees on Appropriations under said Committees' policies concerning the reprogramming of funds contained in Public Law 99-180, $409,000,000, to remain available until expended: *Provided,* That such funds shall become available for obligation on September 30, 1986.

"COUNTERTERRORISM RESEARCH AND DEVELOPMENT

"Notwithstanding section 15(a) of the State Department Basic Authorities Act of 1956, for necessary expenses for 'Counterrorism Research and Development', $10,000,000 to remain available until September 30, 1987."

[2] Sec. 101(b), title III of the Continuing Appropriations Act, 1987 (Public Law 99-591, 100 Stat. 3341), appropriated funds for fiscal year 1987 for the "Administration of Foreign Affairs" itemized in the following manner: Salaries and expenses—$1,527,000,000; representation allowances—$4,460,000; Protection of Foreign Missions and Officials—$9,100,000 acquisition and maintenance of buildings abroad—$440,000,000; emergencies in the diplomatic and consular service—$4,000,000; payment to the American Institute in Taiwan—$9,379,000; and payment to the Foreign Service Retirement and Disability Fund—$127,398,000.

[3] The Department of State Appropriation Act, 1986 (Public Law 99-180 appropriated funds for "International Organizations and Conferences" for fiscal year 1986 itemized in the following manner: contributions to international organizations—$463,000,000; contributions for international peacekeeping activities—$29,400,000; and international conferences and contingencies)—$6,000,000.

[4] Sec. 101(b), title III of the Continuing Appropriations Act, 1987 (Public Law 99-591, 100 Stat. 3341) appropriated funds for fiscal year 1987 for the "International Organizations and Conferences" itemized in the following manner: contributions to international organizations—$385,000,000; contributions for international peacekeeping activities—$29,400,000; and international conferences and contingencies—$5,460,000. An additional $31,689,000 for peacekeeping operation's was provided by title II of the Foreign Assistance and Related Programs Appropriations Act of 1987 (sec. 101(f) of the Continuing Appropriations Act, 1987, Public Law 99-591, 100 Stat. 3341).

[5] The Department of State Appropriation Act, 1986 (Public Law 99-180) appropriated funds for "International Commissions" for fiscal year 1986 itemized in the following manner: International boundary and Water Commission, United States and Mexico (salaries and expenses) $11,300,000; (construction) $2,257,000; American Sections, International Commissions $3,755,000; and International Fisheries Commissions—$11,300,000.

[6] Sec. 101(b), title III of the Continuing Appropriations Act, 1987 (Public Law, 99-591, 100 Stat. 3341), appropriated funds for fiscal year 1987 for "International Commissions" as follows: International Boundary and Water Commission, United States and Mexico (salaries and expenses) $1,800,000; (construction) $3,900,000; (American Sections, International Commissions') $3,700,000; (International Fisheries Commission's) $10,800,000.

(4) MIGRATION AND REFUGEE ASSISTANCE.—For "Migration and Refugee Assistance", $344,730,000 for the fiscal year 1986 [7] and $344,730,000 for the fiscal year 1987.[8]

(5) BILATERAL SCIENCE AND TECHNOLOGY AGREEMENTS.—For "United States Bilateral Science and Technology Agreements", $2,000,000 for the fiscal year 1986 [9] and $2,000,000 for the fiscal year 1987. [10]

(6) SOVIET-EAST EUROPEAN RESEARCH AND TRAINING.—For "Soviet-East European Research and Training", $4,800,000 for the fiscal year 1986 [11] and $5,000,000 for the fiscal year 1987.[12]

SEC. 102. PERMANENT AUTHORIZATIONS OF APPROPRIATIONS.

(a) OTHER AUTHORIZATION OF APPROPRIATIONS.—

(1) Except for authorizations cited in paragraph (2), the only amounts authorized to be appropriated for any fiscal year for the accounts described in section 101 are those amounts specifically authorized to be appropriated for those accounts.

(2) The other authorizations of appropriations referred to in paragraph (1) are those contained in section 24 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2696), relating to increases in employee benefits authorized by law and to adverse fluctuations in foreign currency exchange rates and overseas wage and price changes, and in section 821 of the Foreign Service Act of 1980 (22 U.S.C. 4061), relating to the Foreign Service Retirement and Disability Fund.

(b) NOTIFICATION TO AUTHORIZING COMMITTEES OF CERTAIN REQUESTS FOR APPROPRIATIONS.—In any fiscal year, whenever the Secretary of State submits to the Congress a request for appropriations pursuant to the authorizations described in subsection (a)(2), the Secretary shall notify the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate of such request.

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SEC. 104. SECURITY EARMARK.

Of the amounts authorized to be appropriated for "Administration of Foreign Affairs" by section 101(1), not less than $311,000,000 for the fiscal year 1986 shall be available only for security-related capital projects and improvements and the salaries and expenses associated with security-related personnel.

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[7] The Foreign Assistance Appropriations Act, 1986 (sec. 101(j) of the Continuing Appropriations Act, 1986; Public Law 99-190) appropriated $338,930,000 for "Migration and Refugee Assistance" during fiscal year 1986.

[8] Title II of the Foreign Assistance and Related Programs Appropriations Act (sec. 101(f) of the Continuing Appropriations Act, 1987; Public Law 99-591, 100 Stat. 3341) appropriated $346,856,000 for migration and refugee assistance for fiscal year 1987.

[9] The Department of State Appropriation Act, 1986 (Public Law 99-180) appropriated $2,000,000 for United States Bilateral Science and Technology Agreements.

[10] Title III of sec. 101(b) of the Continuing Appropriations Act (Department of State Appropriations) provided $1,700,000 for scientific and technological cooperation with Yugoslavia.

[11] The Department of State Appropriation Act, 1986 (Public Law 99-180) appropriated for fiscal year 1986, $4,800,000 for Soviet-East European Research and Training.

[12] Title III of sec. 101(b) of the Continuing Appropriations Act (Department of the State Appropriations) provided $4,600,000 for Soviet-East European research and training.

SEC. 105. LIAISON BY THE NATIONAL COMMISSION ON EDUCATIONAL, SCIENTIFIC, AND CULTURAL COOPERATION.

Of the amounts authorized to be appropriated for "Administration of Foreign Affairs" by section 101(1), $250,000 for fiscal year 1986 and $250,000 for the fiscal year 1987 shall be made available to the National Commission on Educational, Scientific, and Cultural Cooperation in order to enable the Commission to maintain a liaison between the United States Government, the United States educational, scientific, cultural, and communications communities, and the United Nations Educational, Scientific, and Cultural Organization (UNESCO).

SEC. 106. AUSTRALIAN BICENTENNIAL.

(a) FINDING.—The Congress finds that the American-Australian Bicentennial Foundation, a private, nonprofit corporation established in 1983 for the purpose of coordinating all United States official and private participation in the 1988 Australian Bicentennial celebration, deserves and needs financial support to effectively carry out that purpose.

(b) GRANT TO AMERICAN-AUSTRALIAN BICENTENNIAL FOUNDATION.—From the amounts authorized to be appropriated for "Administration of Foreign Affairs" by section 101(1), the Secretary of State may make a grant in each of the fiscal years 1986 and 1987 to the American-Australian Bicentennial Foundation in support of its programs and operations to prepare for United States participation in the Australian Bicentennial celebration.

(c) AUTHORITY OF USIA NOT AFFECTED.—Subsection (b) shall not be construed to affect the authority delegated to the Director of the United States Information Agency under section 102(a)(3) of the Mutual Education and Cultural Exchange Act of 1961 (22 U.S.C. 2452(a)(3)).

SEC. 107. WORLD COMMISSION ON ENVIRONMENT AND DEVELOPMENT.

Of the amounts authorized to be appropriated for "International Organizations and Conferences" by section 101(2), $750,000 for each of the fiscal years 1986 and 1987 shall be available only for a voluntary contribution to the World Commission on Environment and Development.

SEC. 108. EARMARKING OF REFUGEE ASSISTANCE FUNDS.

Of the amounts authorized to be appropriated for "Migration and Refugee Assistance" by section 101(4)—

(1) $12,500,000 for the fiscal year 1986 and $25,000,000 for the fiscal year 1987 shall be available only for assistance for refugees resettling in Israel;

(2) $56,000,000 for the fiscal year 1986 and $56,000,000 for the fiscal year 1987 shall be available only for assistance for African refugees; and

(3) $2,500,000 for the fiscal year 1986 and $1,750,000 for the fiscal year 1987 shall be available to combat piracy in the Gulf of Thailand, for assistance to pirate victims, to promote the rescue of refugees in distress at sea in Southeast Asia, and to strengthen protection measures for Indochinese boat refugees.

SEC. 109. INTERNATIONAL COMMITTEE OF THE RED CROSS.

(a) FINDINGS.—The Congress finds that—

(1) the International Committee of the Red Cross carries out humanitarian missions vital to the United States, including—

(A) the promulgation and implementation of international humanitarian law;

(B) the protection of prisoners of war and of noncombatants in time of conflict;

(C) the protection of political prisoners;

(D) assistance in tracing persons who have disappeared in conflicts or for political reasons;

(E) the provision of medicine, food, and essential assistance to refugees and other victims of man-made disasters; and

(F) assistance in family reunification;

(2) the scope and number of activities carried out by the International Committee of the Red Cross have, as a result of recent global developments, necessarily increased; and

(3) there is an urgent need for increased support from the international community for the regular budget and special appeals of the International Committee of the Red Cross.

(b) UNITED STATES POLICY.—It is the policy of the United States—

(1) to contribute to the International Committee of the Red Cross, in any financial year, an amount not less than 20 percent of the regular budget of the International Committee of the Red Cross; and

(2) to support generously the special appeals made by the International Committee of the Red Cross.

(c) EARMARKING.—Of the amounts authorized to be appropriated for "Migration and Refugee Assistance" by section 101(4), not less than $4,500,000 for each of the fiscal years 1986 and 1987 shall be available only for contribution to the regular budget of the International Committee of the Red Cross.

(d) [13] * * *

SEC. 110. LIMITATIONS ON USE OF MIGRATION AND REFUGEE ASSISTANCE FUNDS.

Of the amounts authorized to be appropriated for "Migration and Refugee Assistance" by section 101(4), not more than $2,000,000 for the fiscal year 1986 and not more than $2,000,000 for the fiscal year 1987 may be used for enhanced reception and placement services.

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SEC. 115. ASSISTANT SECRETARIES OF STATE.

(a) * * *

(b) POSITIONS AT LEVEL IV OF THE EXECUTIVE PAY SCHEDULE.—Section 5315 of title 5, United States Code, is amended—

(1) by striking out "Director, Bureau of Intelligence and Research, Department of State"; and

(2) by striking out "(13)" following "Assistant Secretaries of State" and inserting in lieu thereof "(14)".

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[13] Subsec. (d) repealed sec. 105 of the Foreign Relations Authorization Act, Fiscal Year 1978 (Public Law 99-105, 91 Stat. 844).

(b) Effective Date.—Authority provided by the amendment made by subsection (a) shall only apply with respect to funds appropriated after the date of the enactment of this Act.

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SEC. 120. PILOT PROJECT FOR FOREIGN SERVICE ASSOCIATES.

(a) Sense of Congress.—It is the sense of the Congress that the national interest of the United States would be well served by making more productive use in United States missions abroad of the resources that spouses of American personnel assigned to missions abroad are qualified to provide.

(b) Pilot Project.—(1) The Secretary of State is authorized to design, conduct, and evaluate a pilot project to test appropriate means of increasing employment of qualified spouses of American personnel assigned to United States missions. The intent of the pilot project shall be to construct a feasible program within which spouses' education, training, and relevant work experience can be used effectively within the mission and in the furthering of United States interests in the host country.

(2) The Secretary shall conduct the pilot project described in paragraph (1) in accordance with section 311(b) of the Foreign Service Act of 1980 (22 U.S.C. 3951(b)).

(c) Commencement of Design Phase.—The Secretary shall undertake the design phase of the pilot project upon the enactment of this Act.

(d) Report.—The Secretary shall report to the Congress by February 1, 1986, on the design of the project and plans for its implementation and evaluation. The report shall include an evaluation of the effects of the pilot program on the full-time career positions in the Foreign Service and on the positions for foreign service nationals.

SEC. 121. FEASIBILITY STUDY OF A LATERAL ENTRY PROGRAM INTO THE FOREIGN SERVICE FOR BUSINESSMEN AND FARMERS.

(a) Study.—The Secretary of State shall conduct a comprehensive study on the feasibility and desirability of creating a program of lateral entry into the Foreign Service for American businessmen, farmers, and other occupations. This study shall analyze the need for such a program by determining whether or not the personnel of the Foreign Service is composed of many people with a diversity of backgrounds such as business, farming, or other endeavors. The study shall also analyze the costs of putting such a program into effect.

(b) Report.—The Secretary of State shall report the results of such a study to the Congress no later than 180 days after the date of the enactment of this Act.

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SEC. 123. FOREIGN SERVICE INSTITUTE FACILITIES.

(a) [14] Purpose.—The purpose of this section is to promote comprehensive training to meet the foreign relations and national security objectives of the United States and to provide facilities designed for the purpose to assure cost efficient training.

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[14] 22 U.S.C. 4021 note.

(b) CONSTRUCTION OF TRAINING FACILITIES.—The Administrator of General Services may construct a consolidated training facility for the Foreign Service Institute on a site made available by the Secretary of State or acquired by the Administrator of General Services. Such site shall be located outside the District of Columbia but within reasonable proximity to the Department of State. The Administrator of General Services may carry out this subsection only to the extent that funds are provided in advance in appropriation Acts to the Department of State and are transferred to the Administrator of General Services for carrying out this section.

(c) [15] USE OF FUNDS.—(1)(A) Of amounts authorized to be appropriated to the Department of State for fiscal years 1986 and 1987 for "Administration of Foreign Affairs" by section 101(1), a total of not to exceed $11,000,000 may be transferred by the Secretary of State to the Administrator of General Services for carrying out feasibility studies, site acquisition, and design, architectural, and engineering planning under subsection (b) of this section.

(B) Of the amounts authorized to be appropriated to the Department of State for fiscal years beginning after September 30, 1987, the Secretary of State may transfer a total not to exceed $11,000,000 for 'Administration of Foreign Affairs' to the Administrator of General Services for carrying out feasibility studies, site preparation, and design, architectural, and engineering planning under subsection (b).

(2) Of amounts authorized to be appropriated to the Department of State for fiscal years beginning after September 30, 1987, for "Administration of Foreign Affairs", a total not to exceed $50,000,000 may be transferred by the Secretary of State to the Administrator of General Services for carrying out construction under subsection (b) of this section.

(3) Funds may not be obligated for construction of a facility under this section before the end of the period of 30 days of continuous session of Congress beginning on the date on which plans and estimates developed to carry out this section are submitted to the Committees on Foreign Affairs and Public Works and Transportation of the House of Representatives and the Committees on Foreign Relations and Environment and Public Works of the Senate. In determining days of continuous session of Congress for purposes of this paragraph—

(A) continuity of session is broken only by an adjournment of Congress sine die; and

(B) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the determination.

If both Houses of Congress are not in session on the day any plans and estimates are submitted to such committees, such submittal shall be deemed to have been submitted on the first succeeding day on which both Houses are in session. If all such committees do not receive a submittal on the same day, such period shall not begin until the date on which all such committees have received it.

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[15] Paragraph (1) of subsec. (c) was redesignated subparagraph (A) and new subparagraph (B) was added by sec. 135 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204, 101 Stat. 1331).

(d) JURISDICTION AND CUSTODY.—The facility constructed under this section and the site of such facility shall be under jurisdiction and in the custody of the Administrator of General Services.

(e) OPERATION, MAINTENANCE, SECURITY, ALTERATION, AND REPAIR.—(1) The Administrator of General Services shall delegate, in accordance with section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486) and section 15 of the Public Buildings Act of 1959 (40 U.S.C. 614), to the Secretary of State responsibility for the operation, maintenance, and security of and alterations and repairs to the facility constructed pursuant to this section, provided the facility is used by the Secretary for the purposes authorized by this section.

(2) Not later than three months after occupancy of such facility, the Secretary of State and the Administrator of General Services shall each submit a report to the Committee on Foreign Affairs and the Committee on Public Works and Transportation of the House of Representatives, and to the Committee on Foreign Relations and the Committee on Environment and Public Works of the Senate, on the delegation of responsibility, pursuant to paragraph (1), for the operation, maintenance, and security of and alterations and repairs to the facility constructed pursuant to this section.

(f) EXEMPTION FROM PAYMENT OF CHARGES.—(1) Except as provided in paragraph (2), the Department of State shall be exempt from the charges required by section 210(j) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(j)) for the use of the facility constructed under this section for the Foreign Service Institute.

(2) The Administrator of General Services shall charge the Department of State under such section 210(j) for the costs of any operation, maintenance, repairs, or alterations of such facility carried out by the Administrator of General Services.

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SEC. 130.[16] OFFICIAL RESIDENCE OF SECRETARY OF STATE.

(a) CONGRESSIONAL REVIEW.—It is the sense of the Congress that the United States should not accept a gift of any house or other place of residence for the purpose of providing an official residence for the Secretary of State unless the Congress has had an opportunity to review the proposed gift.

(b) STUDY AND REPORT.—The Secretary of State shall conduct a study of any offer of a gift for the purpose of providing a place of official residence for the Secretary of State. Such study shall include an examination of the costs to the United States associated with accepting such gift, including the costs of acquisition, maintenance, security, and daily operation of a residence. The Secretary shall report the results of any study conducted under this section to the Committee on Foreign Affairs and the Committee on Public Works and Transportation of the House of Representatives and to the Committee on Foreign Relations and the Committee on Environment and Public Works of the Senate.

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[16] 22 U.S.C. 2697 note.

SEC. 131. STRENGTHENING THE PERSONNEL SYSTEM OF THE BUREAU OF INTERNATIONAL NARCOTICS MATTERS.

No later than 90 days after the date of the enactment of this Act, the Secretary of State shall report to the Congress on the status of proposals implemented or under consideration to improve the staffing and personnel management in the Bureau of International Narcotics Matters. This report shall explicitly discuss whether a narcotics specialist personnel category in the Foreign Service is an appropriate mechanism to serve these purposes and, if not, what alternatives are contemplated.

SEC. 132.[17] SHARING OF INFORMATION CONCERNING DRUG TRAFFICKERS.

(a) REPORTING SYSTEMS.—In order to ensure that foreign narcotics traffickers are denied visas to enter the United States, as required by section 212(a)(23) of the Immigration and Naturalization Act (22 U.S.C. 1182(a)(23))—

(1) the Department of State shall cooperate with United States law enforcement agencies, including the Drug Enforcement Administration and the United States Customs Service, in establishing a comprehensive information system on all drug arrests of foreign nationals in the United States, so that that information may be communicated to the appropriate United States embassies; and

(2) the National Drug Enforcement Policy Board shall agree on uniform guidelines which would permit the sharing of information on foreign drug traffickers.

(b) REPORT.—Not later than six months after the date of the enactment of this Act, the Chairman of the National Drug Enforcement Policy Board shall submit a report to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate on the steps taken to implement this section.

SEC. 133.[18] EXTRADITION TREATIES.

The Secretary of State, with the assistance of the National Drug Enforcement Policy Board, shall increase United States efforts to negotiate updated extradition treaties relating to narcotics offenses with each major drug-producing country, particularly those in Latin America.

SEC. 134. RECOMMENDATION OF A TRAVEL ADVISORY ON THE STATE OF JALISCO, MEXICO.

(a) VIOLENCE AGAINST AMERICANS.—The Congress—

(1) deplores the brutal murder of Drug Enforcement Administration agent Enrique Camarena Salazar, and the abduction and disappearance of numerous other Americans, including John Clay Walker, Alberto Radelat, Dennis Carlson, Rose Carlson, Benjamin Mascarenas, and Patrica Mascarenas; and

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[17] 8 U.S.C. 1182 note.

[18] 18 U.S.C. 3181 note.

(2) finds that the violence perpetrated by drug traffickers in Mexico constitute a danger to the safety of United States citizens living and traveling in the State of Jalisco, Mexico.

(b) TRAVEL ADVISORY.—The Congress, therefore, recommends that the Secretary of State issue a travel advisory warning United States citizens of the current dangers of traveling in the State of Jalisco, Mexico. Such travel advisory should remain in effect until those responsible for the abduction or murder of any of the United States citizens referred to in subsection (a)(1) have been brought to trial and a verdict has been obtained.

(c) [19] REPORT.—Not later than 90 days after the date of the enactment of this Act and each 90 days thereafter, the Secretary of State shall transmit a written report to the Congress on the progress made in investigating, and prosecuting those responsible for, the 1985 murders of Drug Enforcement Administration agent Enrique Camarena Salazar and his pilot Alfredo Zavala Avelar and the 1986 detention and torture of Drug Enforcement Administration agent Victor Cortez, Junior, the investigations of the disappearance of United States citizens, and the general safety of United States tourists in Mexico.

SEC. 135. COMMENDATION OF AMBASSADOR TO MEXICO.

The Congress commends our fine Ambassador to Mexico, John Gavin, for insuring a full and complete investigation and prosecution of the murders of Enrique Camerena and for his continuing advocacy of a strong drug enforcement program.

SEC. 136.[20] SOVIET EMPLOYEES AT UNITED STATES DIPLOMATIC AND CONSULAR MISSIONS IN THE SOVIET UNION.

(a) LIMITATION.—To the maximum extent practicable, citizens of the Soviet Union shall not be employed as foreign national employees at United States diplomatic or consular missions in the Soviet Union after September 30, 1986.

(b) REPORT.—Should the President determine that the implementation of subsection (a) poses undue practical or administrative difficulties, he is requested to submit a report to Congress describing the number and type of Soviet foreign national employees he wishes to retain at or in proximity to United States diplomatic and consular posts in the Soviet Union, the anticipated duration of their continued employment, the reasons for their continued employment, and the risks associated with the retention of these employees.

SEC. 137. RESPONSIBILITY OF UNITED STATES MISSIONS ABROAD TO PROVIDE SUPPORT FOR UNITED STATES BUSINESSES.

(a) FINDINGS.— The Congress finds that—

(1) the United States is faced with increasingly larger trade deficits every year;

(2) section 104 of the Foreign Service Act of 1980 [21] provides that the members of the Foreign Service shall represent the interests of the United States in relation to foreign countries;

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[19] Sec. 802 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204, 101 Stat. 1331) inserted the words beginning with "progress made in investigating" and ending in "Victor Cortez, Junior" in lieu of the words "progress made in the Camarena case".

[20] 22 U.S.C. 3943 note.

[21] 22 U.S.C. 3904.

(3) section 207(c) of the Foreign Service Act of 1980[22] provides that each chief of mission to a foreign country shall have as a principal duty the promotion of United States goods for export to that country; and

(4) the promotion of United States business interests abroad is a fundamental aspect of United States relations with foreign countries.

(b) POLICY.—It is the sense of the Congress that it is imperative, and in the national interest of the United States, that each United States mission to a foreign country provide such support as may be necessary to United States citizens seeking to do business in that country.

SEC. 138.[23] RESPONSIBILITY OF UNITED STATES MISSIONS TO PROMOTE FREEDOM OF THE PRESS ABROAD.

(a) RESPONSIBILITY.—The United States chief of mission to a foreign country in which there is not respect for freedom of the press shall actively promote respect for freedom of the press in that country.

(b) DEFINITION.—As used in this section, the term "respect for freedom of the press" means that a government—

(1) allows foreign news correspondents into the country and does not subject them to harassment or restrictions;

(2) allows nongovernment-owned press to operate in the country; and

(3) does not subject the press in the country to systematic censorship.

SEC. 139.[24] EMERGENCY TELEPHONE SERVICE AT U.S. CONSULAR OFFICES.

It is the sense of the Congress that the Secretary of State should ensure that all United States consular offices are equipped with 24-hour emergency telephone service through which United States citizens can contact a member of the staff of any such office. The Secretary should publicize the telephone number of each such service for the information of United States citizens. Not more than 90 days after the date of the enactment of this Act, the Secretary shall submit a report to the Congress on steps taken in accordance with this section.

SEC. 140. RESPONSIBILITIES OF UNITED STATES REPRESENTATIVES TO INTERNATIONAL ORGANIZATIONS.

(a) FINDINGS.—The Congress finds that—

(1) international organizations of which the United States is a member are increasingly involved in the consideration of proposals that may have a significant impact on the interstate or foreign commerce of the United States; and

(2) these proposals are not always adequately publicized or considered pursuant to open and fair procedures available to interested persons.

(b) POLICY.—It is the sense of the Congress that—

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[22] 22 U.S.C. 3927.

[23] 22 U.S.C. 2656 note.

[24] 22 U.S.C. 2656 note.

(1) the United States representatives to United Nations-related agencies and to other international organizations should oppose the adoption of international marketing and distribution regulations or restrictions which unnecessarily impede the export of United States goods and services; and

(2) the Secretary of State, to the extent practicable, should publish procedures to provide interested persons with timely notice and an opportunity to comment on such regulations and restrictions under consideration in international organizations as the Secretary determines may significantly affect—

(A) the interstate or foreign commerce of the United States;

(B) the policies or programs of the United States Government; or

(C) any State significantly affected by interstate or foreign commerce.

* * * * * * *

SEC. 143. [25] REFORM IN BUDGET DECISION-MAKING PROCEDURES OF THE UNITED NATIONS AND ITS SPECIALIZED AGENCIES.

(a) Financial Responsibility in Budget Procedures.—To achieve greater financial responsibility in preparation of the assessed budgets of the United Nations and its specialized agencies, the President should continue vigorous efforts to secure implementation by the United Nations, and adoption and implementation by its specialized agencies, of decision-making procedures on budgetary matters which assure that sufficient attention is paid to the views of the United States and other member states who are major financial contributors to such assessed budgets.

(b) Limitation on Assessed Contributions.—

(1) With respect to United States assessed contributions to the United Nations for each calendar year beginning with calendar year 1987—

(A) 40 percent of the United States assessed contributions may be paid beginning on October 1 of such calendar year;

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[25] 22 U.S.C. 287e note. Sec. 143 was amended by sec. 702(b) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204, 101 Stat. 1331). Sec. 702(d) of the same Act terminated the amendment as of September 30, 1989.

Sec. 702(a) of Public Law 100-204 stated that the Congress found the consensus based decision-making procedure established by General Assembly Resolution 41/213 to be a significant step toward complying with the intent of the former sec. 143 which read as follows:

"Sec. 143. UNITED NATIONS ORGANIZATIONS REFORM IN BUDGET PROCEDURES.

"(a) Findings.—The Congress finds that the United Nations and its specialized agencies which are financed through assessed contributions of member states have not paid sufficient attention in the development of their budgets to the views of the member governments who are major financial contributors to those budgets.

"(b) Voting Rights.—In order to foster greater financial responsibility in preparation of the budgets of the United Nations and its specialized agencies which are financed through assessed contributions, the Secretary of State shall seek the adoption by the United Nations and its specialized agencies of procedures which grant voting rights to each member state on matters of budgetary consequence. Such voting rights shall be proportionate to the contribution of each such member state to the budget of the United Nations and its specialized agencies.

"(c) Limitation on Assessed Contributions.—No payments may be made for an assessed contribution to the United Nations or its specialized agencies in excess of 20 percent of the total annual budget of the United Nations or its specialized agencies (respectively) for the United States fiscal year 1987 and following years unless the United Nations and its specialized agencies have adopted the voting rights referred to in subsection (b)."

(B) 40 percent of the United States assessed contributions may be paid when the President has determined and so reported to the Congress that—

(i) the consensus based decision-making procedure established by General Assembly Resolution 41/213 is being implemented and its results respected by the General Assembly;

(ii) progress is being made toward the 50 percent limitation on seconded employees of the Secretariat as called for by the Group of High Level Intergovernmental Experts to Review the Efficiency of the Administrative and Financial Functioning of the United Nations (Group of 18) ; and

(iii) the 15 percent reduction in the staff of the Secretariat (recommendations 55 and 57 of the Group of 18) is being implemented and that such reduction is being equitably applied among the nationals on such staff; and

(C) 20 percent of the United States assessed contributions may be paid beginning on a date which is 30 days after receipt by the Congress of the report described in subparagraph (B) unless the Congress within such 30-day period enacts, in accordance with subsection (c), a joint resolution prohibiting the payment of the remaining 20 percent of such funds.

(2) In the case that the amount appropriated for United States assessed contributions to the United Nations for a calendar year is less than the full amount of such United States assessed contributions for that year, the final one-fifth of the amount appropriated may only be paid—

(A) after the President has made the determinations and report specified in paragraph (1)(B); and

(B) beginning on a date which is 30 days after receipt by the Congress of the report referred to in subparagraph (A) unless the Congress within such 30-day period enacts, in accordance with subsection (c), a joint resolution prohibiting the payment of the remaining one-fifth of such funds.

(3) For each calendar year beginning with calendar year 1987, no payment may be made of an assessed contribution by the United States to any of the specialized agencies of the United Nations if such payment would cause the United States share of the total assessed budget for such agency to exceed 20 percent in any calendar year unless the President determines and so reports to the Congress that such agency has made substantial progress toward the adoption and implementation of decision-making procedures on budgetary matters in a manner that substantially achieves the greater financial responsibility referred to in subsection (a).

(4) Subject to the availability of appropriations, when the presidential determinations referred to in paragraphs (1)(B), (2), and (3) have been made, payment of assessed contributions for prior years may be made to the United Nations or its specialized agencies (as the case may be) without regard to the contribution limitation contained in this section prior to its

being amended by the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989.

(c) Definition and Procedures.—

(1)(A) The provisions of this subsection shall apply to the introduction and consideration in the Senate of a joint resolution described in subsections (b)(1)(C) and (b)(2).

(B) For purposes of this subsection, the term 'joint resolution' means only a joint resolution introduced within 3 days after the date on which the report of the President described in subsection (b)(1)(B) is received by Congress, the matter after the resolving clause of which is as follows: 'That the payment to the United Nations of those contributions described in section 143(b)(1)(C) of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987, is prohibited'.

(2) A joint resolution introduced in the Senate shall be referred to the Committee on Foreign Relations of the Senate. Such a joint resolution may not be reported before the 8th day after its introduction.

(3) If the committee to which is referred a joint resolution has not reported such joint resolution (or an identical joint resolution) at the end of 15 days after its introduction, such committee shall be deemed to be discharged from further consideration of such joint resolution and such joint resolution shall be placed on the appropriate calendar of the Senate.

(4)(A) When the committee to which a joint resolution is referred has reported, or has been deemed to be discharged (under paragraph (3)) from further consideration of, a joint resolution, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the Senate to move to proceed to the consideration of the joint resolution, and all points of order against the joint resolution (and against consideration of the joint resolution) are waived. The motion is privileged in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed to, the joint resolution shall remain the unfinished business of the Senate until disposed of.

(B) In the Senate, debate on the joint resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the joint resolution. A motion further to limit debate is in order and not debatable. An amendment to or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the joint resolution is not in order. A motion to reconsider the vote by which the joint resolution is agreed to or disagreed to is not in order.

(C) Immediately following the conclusion of the debate on a joint resolution, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the

Senate, the vote on final passage of the joint resolution shall occur.

(D) Appeals from the decisions of the Chair relating to the application of the Rules of the Senate to the procedure relating to a joint resolution shall be decided without debate.

(5) If, before the passage by the Senate of a joint resolution of the Senate, the Senate receives from the House of Representatives a joint resolution, then the following procedures shall apply:

(A) The joint resolution of the House of Representatives shall not be referred to a committee.

(B) With respect to a joint resolution of the Senate—

(i) the procedure in the Senate shall be the same as if no joint resolution had been received from the House of Representatives; but

(ii) the vote on final passage shall be on the joint resolution of the House of Representatives.

(6) This subsection is enacted by the Congress—

(A) as an exercise of rulemaking power of the Senate, and as such it is deemed a part of the rules of the Senate, but applicable only with respect to the procedure to be followed in the Senate in the case of a joint resolution, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(B) with full recognition of the constitutional right of the Senate to change the rules (so far as relating to the procedure of the Senate) at any time, in the same manner and to the same extent as in the case of any other rule of the Senate.

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SEC. 145. INTERNATIONAL JUTE ORGANIZATION.

The President is authorized to maintain membership of the United States in the International Jute Organization.

SEC. 146.[26] INTELSAT.

(a) POLICY.—The Congress declares that it is the policy of the United States—

(a) as a party to the International Telecommunications Satellite Organization (hereafter in this section referred to as "Intelsat"), to foster and support the global commercial communications satellite system owned and operated by Intelsat;

(2) to make available to consumers a variety of communications satellite services utilizing the space segment facilities of Intelsat and any additional such facilities which are found to be in the national interest and which—

(A) are technically compatible with the use of the radio frequency spectrum and orbital space by the existing or planned Intelsat space segment, and

(B) avoid significant economic harm to the global system of Intelsat; and

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[26] 47 U.S.C. 701 note.

(3) to authorize use and operation of any additional space segment facilities only if the obligations of the United States under article XIV(d) of the Intelsat Agreement [27] have been met.

(b) PRECONDITIONS FOR INTELSAT CONSULTATION.—Before consulting with Intelsat for purposes of coordination of any separate international telecommunications satellite system under article XIV(d) of the Intelsat Agreement, the Secretary of State shall—

(1) in coordination with the Secretary of Commerce, ensure that any proposed separate international satellite telecommunications system comply with the Executive Branch conditions established pursuant to the Presidential Determination No. 85-2; [28] and

(2) ensure that one or more foreign authorities have authorized the use of such system consistent with such conditions.

(c) AMENDMENT OF INTELSAT AGREEMENT.—(1) The Secretary of State shall consult with the United States signatory to Intelsat and the Secretary of Commerce regarding the appropriate scope and character of a modification to article V(d) of the Intelsat Agreement which would permit Intelsat to establish cost-based rates for individual traffic routes, as exceptional circumstances warrant, paying particular attention to the need for avoiding significant economic harm to the global system of Intelsat as well as United States national and foreign policy interests.

(2)(A) To ensure that rates established by Intelsat for such routes are cost-based, the Secretary of State, in consultation with the Secretary of Commerce and the Chairman of the Federal Communications Commission, shall instruct the United States signatory to Intelsat to ensure that sufficient documentation, including documentation regarding revenues and costs, is provided by Intelsat so as to verify that such rates are in fact cost-based.

(B) To the maximum extent possible, such documentation will be made available to interested parties on a timely basis.

(3) Pursuant to the consultation under paragraph (1) and taking the steps prescribed in paragraph (2) to provide documentation, the United States shall support an appropriate modification to article V(d) of the Intelsat Agreement [29] to accomplish the purpose described in paragraph (1).

(d) CONGRESSIONAL CONSULTATION.—In the event that, after United States consultation with Intelsat for the purposes of coordination under article XIV(d) of the Intelsat Agreement for the establishment of a separate international telecommunications satellite system, the Assembly of Parties of Intelsat fails to recommend such a separate system, and the President determines to pursue the establishment of a separate system notwithstanding the Assembly's failure to approve such system, the Secretary of State, after consultation with the Secretary of Commerce, shall submit to the Congress a detailed report which shall set forth—

(1) the foreign policy reasons for the President's determination, and

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[27] 23 U.S.C. 3813.

[28] 3 C.F.R. 1984 Comp., p. 254.

[29] 23 U.S.T. 3813.

(2) a plan for minimizing any negative effects of the President's action on Intelsat and on United States foreign policy interests.

(e) Notification to Federal Communications Commission.—In the event the Secretary of State submits a report under subsection (d), the Secretary, 60 calendar days after the receipt by the Congress of such report, shall notify the Federal Communications Commission as to whether the United States obligations under article XIV(d) of the Intelsat Agreement have been met.

(f) Implementation.—In implementing the provisions of this section, the Secretary of State shall act in accordance with Executive order 12046.[30]

(g) Definition.—For the purposes of this section, the term "separate international telecommunications satellite system" or "separate system" means a system of one or more telecommunications satellites separate from the Intelsat space segment which is established to provide international telecommunications services between points within the United States and points outside the United States, except that such term shall not include any satellite or system of satellites established—

(1) primarily for domestic telecommunications purposes and which incidentally provides services on an ancillary basis to points outside the jurisdiction of the United States but within the western hemisphere, or

(2) solely for unique governmental purposes.

SEC. 147. SOVIET AND COMMUNIST DISINFORMATION AND PRESS MANIPULATION.

Not later than one year after the date of the enactment of this Act, the Secretary of State shall prepare, in consultation with the heads of relevant Federal departments and agencies, and shall transmit to the Speaker of the House of Representatives, and to the Chairman of the Committee on Foreign Relations of the Senate, an unclassified report on Soviet and Communist disinformation and press manipulation with respect to the United States. Such report shall include a recommendation by the President on the advisability of establishing within the Department of State, a permanent office of Soviet disinformation and press manipulation. In conducting the study required by this section the Secretary may make use of suitably qualified scholars and journalists.

SEC. 148. MURDER OF MAJOR ARTHUR D. NICHOLSON, JUNIOR.

It is the sense of the Congress that the United States should declare persona non grata one or more senior defense attaches of the Soviet Union's mission to the United States unless the President certifies to the Congress, within 90 days after the date of the enactment of this Act—

(1) that the Soviet Union has made a formal apology for the murder of Major Arthur D. Nicholson, Junior, and

(2) that the Soviet Union has provided satisfactory assurances that it will adhere to agreements concerning the status and safety of military and civilian missions of western nations in the German Democratic Republic.

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[30] 3 C.F.R. 1978 Comp., p. 158.

SEC. 149. INTER-AMERICAN COOPERATION IN SPACE, SCIENCE, AND TECHNOLOGY.

The Secretary of State shall conduct an in-depth study of the feasibility and the economic and political benefits of the establishment of a major initiative in Inter-American Cooperation in Space, Science, and Technology. Not more than one year after the date of the enactment of this Act, the Secretary shall submit a report to the Congress on the findings of such study and shall include recommendations for implementing such an initiative.

SEC. 150. DEPARTMENT OF STATE INSPECTOR GENERAL.

(a)[31] * * *

(b)[32] Abolishment of the Inspector General of the Department of State and the Foreign Service.—Notwithstanding section 209 of the Foreign Service Act of 1980 (22 U.S.C. 3929), the Inspector General of the Department of State and the Foreign Service is hereby abolished.

(c) Report.—Not later than six months after the date of the enactment of this Act, the Secretary of State shall submit a report to the Congress on the steps the Secretary has undertaken to implement the provisions of the amendment made by subsection (a).

SEC. 151.[33] EMPLOYEES OF THE UNITED NATIONS.

(a) Initial Report.—Not later than 90 days after the date of enactment of this Act, the Secretary of State shall report to the Congress on whether, and the extent to which, international civil servants employed by the United Nations, including those seconded to the United Nations, are required to return all or part of their salaries to their respective governments. The Secretary shall also include in this report a description of the steps taken by the Department of State and by the United States Representative to the United Nations to correct this practice.

(b) Report on Steps to Correct Practice.—The Secretary of State shall determine and report to the Congress on whether substantial progress has been made by June 1, 1986, in correcting the practice of international civil servants employed by the United Nations being required to return all or part of their salaries to their respective governments.

(c) Reduction in Contribution if Substantial Progress Not Made.—If the Secretary of State determines pursuant to subsection (b) that substantial progress has not been made in correcting this practice, the United States shall thereafter reduce the amount of its annual assessed contribution to the United Nations by the amount of that contribution which is the United States proportionate share of the salaries of those international civil servants employed by the United Nations who are returning any portion of their salaries to their respective governments.

(d) National Taxation.—This section does not apply with respect to payments made for purposes of national taxation in accordance with formal treaty reservations concerning such taxation by a member state of the United Nations.

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[31] Subsec. (a) established a Department of State Inspector General under the Inspector General Act of 1978.

[32] Subsec. (b) was substantially amended and restated by sec. 413(c) of the Omnibus Diplomatic and Antiterrorism Act of 1986 (Public Law 99-399, 100 Stat. 868).

[33] 22 U.S.C. 287e.

SEC. 152.[34] REPRESENTATION OF MINORITIES AND WOMEN IN THE FOREIGN SERVICE.

(a) DEVELOPMENT OF PROGRAM.—The head of each agency utilizing the Foreign Service personnel system shall develop, consistent with section 7201 of title 5 of the United States Code, a plan designed to increase significantly the number of members of minority groups and women in the Foreign Service in that agency.

(b) EMPHASIS ON MID-LEVELS.—Each plan developed pursuant to this section shall, consistent with section 7201 of title 5 of the United States Code, place particular emphasis on achieving significant increases in the numbers of minority group members and women who are in the mid-levels of the Foreign Service.

(c) [35] * * * [Repealed—1987]

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SEC. 154. DAMAGES RESULTING FROM DELAYS IN THE CONSTRUCTION OF THE UNITED STATES EMBASSY IN MOSCOW.

(a) RESTRICTION; REIMBURSEMENT FOR DAMAGES INCURRED.—The Secretary of State shall not permit the Soviet Union to occupy the new chancery building at its new embassy complex in Washington, D.C., or any other new facility in the Washington, D.C. metropolitan area, if the Soviet Union fails to provide prompt and full reimbursement to the United States for damages incurred as a result of the construction of the new United States Embassy in Moscow. The amount of such reimbursement shall be determined by agreement between the United States and the Soviet Union or, in the event of disagreement, by international arbitration pursuant to subsection (b).

(b) INTERNATIONAL ARBITRATION.—Not later than 30 days after the date of the enactment of this Act, the Secretary of State shall initiate actions to begin the international arbitration process, which is provided for in the embassy construction agreement between the United States and the Soviet Union, in order to resolve all United States claims against the Soviet Union for damages arising from delays in the construction of the new United States Embassy complex in Moscow.

(c) REPORT.—In the event the amount of reimbursement provided to the United States under subsection (a) by the Soviet Union is less than the amount of funds expended for the damages described in subsection (a) that are determined by the Secretary of State to be the responsibility of the Soviet Union, the Secretary of State shall submit a report to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate. Such report shall contain a detailed explanation of the reasons the Secretary accepted the settlement arrangements of the United States claims and the financial costs to the United States of doing so.

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[34] 22 U.S.C. 3922a.

[35] Subsec. (c) was repealed by sec. 185(c)(3) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204, 101 Stat. 1331). It required the head of each agency utilizing Foreign Service personnel to report annually to the Congress on the plan developed pursuant to sec. 152.

(d) SUSPENSION OF RESTRICTIONS.—The Secretary of State may suspend the restrictions in subsection (a) in the interests of United States national security if the Secretary certifies to the Congress that a substantial number of the claims described in subsection (a) are settled and that resolution of any remaining claims is proceeding in a satisfactory manner. If the Secretary exercises the authority under this subsection, the Secretary shall report to the appropriate committees of the Congress every six months concerning progress on resolution of any outstanding claims.

SEC. 155. SOVIET AND INTERNATIONAL COMMUNIST BEHAVIOR.

Not later than one year after the date of enactment of this section, the Secretary of State shall prepare and transmit to the Speaker of the House of Representatives, and to chairman of the Committee on Foreign Relations of the Senate, an unclassified report on the advisability of establishing a permanent office in the Department of State to study Soviet and international Communist behavior that violates the concepts of national sovereignty and peace between nations. In conducting the study required by this section, the Secretary may make use of suitably qualified journalists and scholars.

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TITLE II—UNITED STATES INFORMATION AGENCY [36]

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TITLE III—BOARD FOR INTERNATIONAL BROADCASTING [37]

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TITLE IV—THE ASIA FOUNDATION [38]

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TITLE V—IRAN CLAIMS SETTLEMENT [39]

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TITLE VI—UNITED STATES SCHOLARSHIP PROGRAM FOR DEVELOPING COUNTRIES [40]

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TITLE VII—ARMS CONTROL AND DISARMAMENT [41]

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[36] For free-standing provisions of this title, see page 629.

[37] Title III contained amendments to the Board for International Broadcasting Act of 1973. For free-standing provisions of this title, see page 739.

[38] Title IV amended sec. 404 of the Asia Foundation Act. For text, see page 583.

[39] For free-standing provisions of this title, see vol. IV, sec. N.

[40] For text of this title, see page 683.

[41] Title VII contained amendments to the Arms Control and Disarmament Act. For free-standing provisions of this title, see page 799.

TITLE VIII—MISCELLANEOUS PROVISIONS [42]

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SEC. 802. UNITED STATES INSTITUTE OF PEACE.

It is the sense of the Congress that, pursuant to title XVII of the Department of Defense Authorization Act,[43] 1985 (22 U.S.C. 4601 et seq.), nominations to the Board of Directors for the United States Institute of Peace should be submitted to the Senate on a timely basis to permit implementation of the congressional mandate.

SEC. 803.[42] EX GRATIA PAYMENT TO THE GOVERNMENT OF SWITZERLAND.

Section 39 of the Trading With the Enemy Act (62 Stat. 1246, 50 U.S.C. App. 39) is amended by adding at the end thereof the following new subsection:

"(f) Notwithstanding any of the provisions of subsections (a) through (d) of this section, the Attorney General is authorized to pay from property vested in or transferred to the Attorney General under this Act, the sum of $20,000 as an ex gratia payment to the Government of Switzerland in accordance with the terms of the agreement entered into by that Government and the Government of the United States on March 12, 1980."

SEC. 804. POLICY TOWARD APPLICATION OF THE YALTA AGREEMENT.

(a) FINDINGS.—The Congress finds that—

(1) during World War II, representatives of the United States, Britain, and the Soviet Union took part in agreements and understandings concerning other peoples and nations in Europe;

(2) the Soviet Union has not adhered to its obligation undertaken in the 1945 Yalta agreement to guarantee free elections in the countries involved, specifically the pledge for the "earliest possible establishment of free elections of government responsive to the wills of the people and to facilitate where necessary the holding of such elections";

(3) the strong desire of the people of Central and Eastern Europe to exercise their national sovereignty and self-determination and to resist Soviet domination has been demonstrated on many occasions since 1945, including armed resistance to the forcible Soviet takeover of the Baltic Republics and resistance in the Ukraine as well as in the German Democratic Republic in 1953, in Hungary in 1956, in Czechoslovakia in 1968, and in Poland in 1956, 1970, and since 1980;

(4) it is appropriate that the United States express the hopes of the people of the United States that the people of Central and Eastern Europe be permitted to exercise their national sovereignty and self-determination free from Soviet interference; and

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[42] Title VIII amended the National Emergencies Act, the Trading With the Enemy Act, and the United States-India Fund for Cultural, Educational, and Scientific Cooperation Act. Freestanding provisions are reproduced below together with sec. 803 which amended sec. 39 of the Trading With the Enemy Act. Sec. 39 of the amended act does not appear elsewhere in this volume.

[43] 98 Stat. 2649.

(5) it is appropriate for the United States to reject any interpretation or application that, as a result of the signing of the 1945 Yalta executive agreements, the United States accepts and recognizes in any way Soviet hegemony over the countries of Eastern Europe.

(b) POLICY.—(1) The United States does not recognize as legitimate any spheres of influence in Europe and it reaffirms its refusal to recognize such spheres in the present or in the future, by repudiating any attempts to legitimize the domination of East European nations by the Soviet Union through the Yalta executive agreement.

(2) The United States proclaims the hope that the people of Eastern Europe shall again enjoy the right to self-determination within a framework that will sustain peace, that they shall again have the right to choose a form of government under which they shall live, and that the sovereign rights of self-determination shall be restored to them in accordance with the pledge of the Atlantic Charter and with provisions of the United Nations Charter [44] and the Helsinki Final Act of the Conference on Security and Cooperation in Europe; [45]

SEC. 805. POLICY TOWARD TREATMENT OF SOVIET PENTECOSTALS.

(a) FINDINGS.—The Congress finds that—

(1) it is the policy of the Government of the Soviet Union to hinder and deny the free practice of religion and to deny freedom to emigrate to the victims of religious persecution;

(2) such policies are a violation of the letter and spirit of the Charter of the United Nations, the United Nations Declaration on Human Rights, and the Helsinki Final Act of the Conference on Security and Cooperation in Europe;

(3) members of the 170-member Pentecostal Christian community living in Chuguyevka in the Soviet Far East have allegedly undergone persecution at the hands of the Soviet authorities as a result of their attempts to practice their religious beliefs;

(4) the Soviet authorities allegedly have refused to allow members of that Pentecostal community to emigrate from the Soviet Union;

(5) when, on Monday, May 13, 1985, four members of the Pentecostal community of Chuguyevka attempted to enter the United States Embassy in Moscow in an attempt to seek refuge and make their plight known, they were intercepted by Soviet guards stationed outside the Embassy;

(6) in the scuffle that ensued three of the Pentecostals were beaten severely and arrested by the Soviet guards, while the fourth Pentecostal gained entrance to the Embassy and was interviewed by United States officials; and

(7) upon agreeing to leave the United States Embassy the man was driven to the subway in a diplomatic car where he was detained by Soviet police before he could enter the subway.

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[44] 55 Stat. 1600.

[45] 59 Stat. 1031.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) the Soviet Union has acted in violation of the human rights of the Pentecostal community in Chuguyevka by hindering the practice of their religious beliefs and refusing to allow them to emigrate from the Soviet Union;

(2) personnel of the Government of the Soviet Union acted in violation of the human rights of the four members of the Pentecostal community who attempted to enter the United States Embassy in Moscow, particularly in using excessive force in an attempt to prevent their entry;

(3) the United States Department of State should continue through all available channels to assure the safety of the four persons who attempted to enter the United States Embassy, and to seek to persuade the Government of the Soviet Union to allow the members of the Pentecostal community in Chuguyevka to emigrate to the West; and

(4) the Secretary of State should undertake a study of United States policy relating to the granting of asylum in United States embassies abroad and develop recommendations for the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives as to where current policy might be adjusted with relation to incidents over the past five years where asylum has been requested at United States embassies abroad.

SEC. 806. DEMOCRACY ON TAIWAN.

(a) FINDINGS.—The Congress finds that—

(1) peace has prevailed in the Taiwan Strait since the normalization of relations between the United States and the People's Republic of China;

(2) the United States expects the future of Taiwan to be settled peacefully and considers a secure Taiwan free from external threat an indispensable element for the island's further democratization and a goal set forth in the Taiwan Relations Act;

(3) the authorities on Taiwan are striving to achieve greater democracy at the local level;

(4) an increasing number of native Taiwanese have been appointed to responsible positions at the provincial and national level on Taiwan;

(5) martial law measures tend to impede progress toward democracy and to abridge guarantees of human rights;

(6) movement toward greater democracy on Taiwan serves to bolster continued American public support for the moral and legal responsibilities set forth in the Taiwan Relations Act;[46]

(7) the United States, in the Taiwan Relations Act, has reaffirmed as a national objective the preservation and enhancement of the human rights of all the people on Taiwan; and

(8) the United States considers democracy a fundamental human right.

(b) SENSE OF CONGRESS.—It is therefore the sense of the Congress that—

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[46] 22 U.S.C. 3301 note.

(1) one important element of a peaceful future for Taiwan is greater participation in the political process by all the people on Taiwan; and

(2) accordingly, the United States should encourage the authorities on Taiwan, in the spirit of the Taiwan Relations Act, to work vigorously toward this end.

SEC. 807. INCREASE UNITED STATES-CHINA TRADE.

(a) FINDINGS.—The Congress finds that—

(1) the People's Republic of China has made substantial progress in promoting market-oriented practices throughout the Chinese economy;

(2) the Chinese economy has responded to this increased liberalization with record growth that last year alone resulted in increases in the real gross national product of an estimated 13 percent;

(3) this growth has created significant new demand for a vast array of products and services that can be met by American producers;

(4) United States trade with the People's Republic of China totalled only $6,000,000,000 in 1984 and was again in deficit by more than $50,000,000;

(5) increased exports are essential to the creation of American jobs and to the vitality of the American economy; and

(6) the People's Republic of China represents the world's largest potential market.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that, consistent with overall American foreign policy and national security objectives, the Secretary of State and the Secretary of Commerce should take appropriate steps to increase United States-China trade with a view to improving the trade balance, increasing American jobs through export growth, and assuring significant United States participation in the growing Chinese market.

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SEC. 809. REFUGEES IN THAILAND.

(a) APPRECIATION FOR THE RESPONSE OF THE GOVERNMENT OF THAILAND.—The Congress recognizes and expresses appreciation for the extraordinary willingness of the Government of Thailand to respond in a humanitarian way to the influx of refugees fleeing Vietnamese communist oppression.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) Cambodians, Laotians, and Vietnamese seeking asylum and refuge in Thailand should not be involuntarily repatriated or otherwise put at risk; and

(2) every effort should be made to provide increased security for refugees in camps in Thailand which should include an increased presence by international humanitarian organizations.

(c) REVIEW OF CERTAIN CAMBODIAN REFUGEES.—

(1) The Secretary of State should—

(A) work with the Government of Thailand and the United Nations High Commissioner for Refugees to conduct a review of the status of Cambodians who have not been permitted to register at refugee camps in Thailand; and

(B) implement a humanitarian solution to their plight.

(2) The Secretary of State, with the assistance of appropriate agencies, should conduct a review of those Cambodians who have been rejected for admission to the United States to ensure such decisions are consistent with the letter and spirit of United States refugee and immigration law.

(3) The Secretary of State, with the assistance of appropriate agencies, should institute as expeditiously as possible a family reunification program for those refugees in Thailand, including those at the border who have family members in the United States.

(4) The Secretary of State should provide for a program of educational assistance for Cambodians in the border camps and for improved literacy training in all camps.

SEC. 810. POLICY REGARDING FOREIGN EXCHANGE INTERVENTION.

(a) FINDINGS.—The Congress finds and declares that—

(1) the trade deficit looms larger than any other threat to the ability of the United States to generate jobs and create economic well-being;

(2) the trade deficit continues to deteriorate even from the 1984 level of $123,000,000,000;

(3) the trade deficit will continue to deteriorate until the value of the dollar declines on foreign exchange markets;

(4) the dollar's rise may slow down but is unlikely to fall sufficiently as a result of Congress' contemplated budget deficit reduction measures;

(5) the value of the dollar would probably fall under a number of tax reform proposals but industries losing market share due to the exchange rate may not be able to wait for a complete tax package;

(6) the only remaining timely option for lowering the value of the dollar is intervention in foreign exchange markets by the Secretary of the Treasury or the Federal Reserve Board;

(7) any such intervention must be strong enough to achieve the intent of the Congress of lowering the dollar's value but sufficiently moderate to prevent a sudden drop in its value;

(8) any such intervention in order to assure a gradual decline and protect against too large a drop in the value of the dollar, will require coordinated action by the central banks of Europe and Japan as well as the United States; and

(9) such coordination is especially important to strengthen economic and political ties with the allies of the United States and to promote consistent macroeconomic policies to the mutual benefit of all.

(b) SENSE OF CONGRESS.—Therefore, it is the sense of the Congress that—

(1) the Secretary of the Treasury and the Chairman of the Federal Reserve Board, in concert with United States allies and coordinated with the central banks of the Group of Five or other major central banks, should take such steps as are necessary to lower gradually the value of the dollar;

(2) such steps should not exclude intervention in the foreign exchange markets;

(3) the Secretary of the Treasury and the Chairman of the Federal Reserve Board should work to ensure that the domestic macroeconomic policies of the United States and its allies are forged to reinforce rather than oppose one another.

SEC. 811. COMMENDING MAYOR TEDDY KOLLEK OF JERUSALEM.

(a) FINDINGS.—The Congress finds that—

(1) Mayor Teddy Kollek has worked to promote harmony among all the people of Jerusalem; and

(2) he has promoted freedom of access to religious shrines for Muslims, Christians, and Jews; and

(3) through his efforts the aesthetic character of the city has been enhanced.

(b) COMMENDATION.—Therefore, the Congress commends Mayor Kollek for his efforts over the years.

SEC. 812. JAPAN-UNITED STATES SECURITY RELATIONSHIP AND EFFORTS BY JAPAN TO FULFILL SELF-DEFENSE RESPONSIBILITIES.[47]

(a) FINDINGS.—The Congress hereby finds—

(1) the Japan-United States security relationship is the foundation of the peace and security of Japan and the Far East, as well as a major contributor to the protection of the United States and of the democratic freedoms and economic prosperity enjoyed by both the United States and Japan;

(2) the threats to our two democracies have increased significantly since 1976, principally through the Soviet invasion of Afghanistan, the expansion of Soviet armed forces in the Far East, the invasion of Cambodia by Vietnam, and the instability in the Persian Gulf region as signified by the continuing Iran-Iraq conflict;

(3) in recognition of these and other threats, the United States has greatly increased its annual defense spending through sustained real growth averaging 8.8 percent yearly between fiscal 1981 and 1985, and cumulative real growth of 50 percent in that period;

(4) the United States Government appreciates the May 1981 commitment by the Prime Minister of Japan that, pursuant to the Treaty of Mutual Cooperation and Security of 1960 between Japan and the United States, Japan,[48] on its own initiative, would seek to make even greater efforts for improving its defense capabilities, and pursuant to Japan's own Constitution, it was national policy for his country to acquire and maintain the self-defense forces adequate for the defense of its land area and surrounding airspace and sealanes, out to a distance of 1,000 miles;

(5) the United States Government applauds the policy of Japan to obtain the capabilities to defend its sea and air lanes out to 1,000 miles, expects that these capabilities should be acquired by the end of the decade, and recognizes that achieving

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[47] 22 U.S.C. 1928 note.

[48] 11 UST 1632.

those capabilities would significantly improve the national security of both Japan and the United States;

(6) the United States Government appreciates the contribution already made by Japan through the Host Nation Support Program and its recent efforts to increase its defense spending; and

(7) Japan, however, in recent years consistently has not provided sufficient funding and resources to meet its self-defense needs and to meet common United States-Japan defense objectives and alliance responsibilities.

(b) Sense of Congress.—It is the sense of the Congress that Japan, to fulfill its self-defense responsibilities pursuant to the 1960 Mutual Cooperation and Security Treaty with the United States, and in accordance with the national policy declaration made by its Prime Minister in May 1981, to develop a 1,000-mile airspace and sealanes defense capability, should implement a 1986–1990 Mid-Term Defense Plan containing sufficient funding, program acquisition, and force development resources to obtain the agreed-upon 1,000 mile self-defense capabilities by the end of the decade, including the allocation of sufficient budgetary resources annually to reduce substantially the ammunition, logistics, and sustainability shortfalls of its self-defense forces.

(c) Submission to Congress.—Not later than March 31, 1986, and on an annual basis thereafter, the President shall submit to the appropriate committees of Congress, in both a classified and unclassified form, detailed and extensive information to permit the Congress to understand Japan's progress toward actually fulfilling its common defense commitment, including the development and implementation of a 1986–1990 Mid-Term Defense Plan fully funded for Japan to achieve 1,000-mile self-defense capabilities by 1990. Such information shall include a description of actions taken by the United States Government in the preceding year to encourage Japan to meet its 1,000-mile self-defense commitment by 1990.

SEC. 813. DIPLOMATIC EQUIVALENCE AND RECIPROCITY.

(a) Statement of Congressional Policy.—(1) It is the policy of the Congress that the number of nationals of the Soviet Union admitted to the United States who serve as diplomatic or consular personnel of the Soviet Union to the United States shall be substantially equivalent to the number of United States nationals admitted to the Soviet Union who serve as diplomatic or consular personnel of the United States in the Soviet Union unless the President determines that the admission of additional Soviet diplomatic and consular personnel would be in the best interests of the United States.

(2) The policy expressed in paragraph (1) does not apply to dependents or spouses who do not serve as diplomatic or consular personnel.

(b) Reporting Requirement.—The Secretary of State and the Attorney General shall prepare and, not later than 6 months after the date of the enactment of this Act, shall transmit to the Committee on Foreign Relations and the Select Committee on Intelligence of the Senate, and to the Committee on Foreign Affairs and the Permanent Select Committee on Intelligence of the House of

Representatives, a report setting forth a plan for ensuring that the number of Soviet nationals described in subsection (a) does not exceed the limitation described in that section.

(c) DEFINITIONS.—For purposes of this section—

(1) the term "diplomatic or consular personnel" means the members of the diplomatic mission or the members of the consular post, as the case may be;

(2) the term "members of the diplomatic mission" is used within the meaning of Article 1(b) of the Vienna Convention on Diplomatic Relations (done April 18, 1961),[49] and

(3) the term "members of the consular post" is used within the meaning of Article 1(g) of the Vienna Convention on Consular Relations (done April 24, 1963).[50]

SEC. 814.[51] UNITED STATES INTERNATIONAL NARCOTICS CONTROL COMMISSION.

(a) ESTABLISHMENT.—There is established the United States International Narcotics Control Commission (hereafter in this section referred to as the "Commission").

(b) DUTIES.—The Commission is authorized and directed—

(1) to monitor and promote international compliance with narcotics control treaties, including eradication and other relevant issues; and

(2) to monitor and encourage United States Government and private programs seeking to expand international cooperation against drug abuse and narcotics trafficking.

(c) MEMBERSHIP.—(1) The Commission shall be composed of 12 members as follows:

(A) 7 Members of the Senate appointed by the President of the Senate, 4 of whom (including the member designated as Chairman) shall be selected from the majority party of the Senate, after consultation with the majority leader, and 3 of whom (including the member designated as Cochairman) shall be selected from the minority party of the Senate, after consultation with the minority leader.

(B) 5 members of the public to be appointed by the President after consultation with the members of the appropriate congressional committees.

(2) There shall be a Chairman and a Cochairman of the Commission.

(d) POWERS.—In carrying out this section, the Commission may require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents as it deems necessary. Subpoenas may be issued over the signature of the Chairman of the Commission or any member designated by him, and may be served by any person designated by the Chairman or such member. The Chairman of the Commission, or any member designated by him, may administer oaths to any witness.

(e) REPORT BY PRESIDENT TO COMMISSION.—In order to assist the Commission in carrying out its duties, the President shall submit to the Commission a copy of the report required by section 481(e) of the Foreign Assistance Act of 1961 (22 U.S.C. 2991(e)).

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[49] 23 UST 3227.

[50] 21 UST 77.

[51] 22 U.S.C. 2291 note.

(f) REPORT TO SENATE.—The Commission is authorized and directed to report to the Senate with respect to the matters covered by this section on a periodic basis and to provide information to Members of the Senate as requested. For each fiscal year for which an appropriation is made the Commission shall submit to the Congress a report on its expenditures under such appropriation.

(g) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated to the Commission $325,000 for each fiscal year, to remain available until expended, to assist in meeting the expenses of the Commission for the purpose of carrying out the provisions of this section.

(2) For purposes of section 502(b) of the Mutual Security Act of 1954 (22 U.S.C. 1754(b)), the Commission shall be deemed to be a standing committee of the Senate and shall be entitled to the use of funds in accordance with such section.

(h) STAFF.—The Commission may appoint and fix the pay of such staff personnel as it deems desirable, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.[52]

(i) TERMINATION.—The Commission shall cease to exist on September 30, 1988.[53]

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[52] 5 U.S.C. 5101 et seq., 5331.

[53] The year 1988 was substituted in lieu of 1987 by sec. 5 of title I of the Legislative Branch Appropriations Act, 1988 (sec. 101(i) of the Continuing Appropriations for 1988, Public Law 100-202, 101 Stat. 1329).

c. Department of State Authorization Act, Fiscal Years 1984 and 1985

Partial text of Public Law 98-164 [H.R. 2915], 97 Stat. 1017, approved November 22, 1983, as amended by Public Law 99-93 [H.R. 2068], 99 Stat. 405, approved August 16, 1985; Public Law 99-415 [Anglo-Irish Agreement Support Act of 1986, H.R. 4329], 100 Stat. 949, approved September 19, 1986; and by Public Law 100-204 [Foreign Relations Authorization Act, Fiscal Years 1988 and 1989, H.R. 1777], 101 Stat. 1331, approved December 22, 1987

> NOTE.—Sections in this Act amend other State Department and foreign relations legislation and are incorporated elsewhere in this compilation.

AN ACT To authorize appropriations for fiscal years 1984 and 1985 for the Department of State, the United States Information Agency, the Board for International Broadcasting, the Inter-American Foundation, and the Asia Foundation, to establish the National Endowment for Democracy, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—DEPARTMENT OF STATE

SHORT TITLE

Sec. 101. This title and title X of this Act may be cited as the "Department of State Authorization Act, Fiscal Years 1984 and 1985".

AUTHORIZATIONS OF APPROPRIATIONS

Sec. 102. In addition to amounts otherwise authorized for such purposes, the following amounts are authorized to be appropriated for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States and other purposes authorized by law:

(1) For "Administration of Foreign Affairs", $1,486,213,000 for the fiscal year 1984 [1] and $1,580,820,000 for the fiscal year 1985.[2]

(2) For "International Organizations and Conferences", $602,343,000 for the fiscal year 1984 [3] and $602,343,000 for the fiscal year 1985.[4]

(3) For "International Commissions", $23,207,000 for the fiscal year 1984 [5] and $25,355,000 for the fiscal year 1985.[6]

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[1] The Department of State Appropriations Act, 1984 (Public Law 98-166) appropriated $1,406,497,000 for the "Administration of Foreign Affairs" during fiscal year 1984, itemized in the following manner: salaries and expenses—$1,114,810,000; representation allowances—$4,148,000; acquisition, operation, and maintenance of buildings abroad—$160,000,000; acquisition, operation, and maintenance of buildings abroad (special foreign currency program)—$10,012,000; emergencies in the diplomatic and consular service—$4,356,000; payment to the American Institute in Taiwan—$9,380,000; and payment to the Foreign Service Retirement and Disability Fund—$103,791,000.

The Second Supplemental Appropriations Act, 1984 (Public Law 98-396) for additional amounts provided for "Administration of Foreign Affairs" during fiscal year 1984.

[2] The Department of State Appropriations Act, 1985 (title III of Public Law 98-411) appropriated $1,631,721,000 for the "Administration of Foreign Affairs" during fiscal year 1985, itemized in the following manner: salaries and expenses—$1,264,901,000; reopening consulates—$1,929,000; representation allowances—$4,500,000; protection of foreign missions and officials—$9,500,000; acquisition, operation, and maintenance of buildings abroad—$211,000,000; acquisition, operation, and maintenance of buildings abroad (special foreign currency program—$19,353,000; emergencies in the diplomatic and consular service—$4,000,000; payment to the American Institute in Taiwan—$9,800,000; and payment to the Foreign Service Retirement and Disability Fund—$106,738,000.

In addition, sec. 139 of the Continuing Appropriations Act, 1985 (Public Law 98-473) appropriated $110,200,000 for the "Administration of Foreign Affairs" during fiscal year 1985, itemized in the following manner: salaries and expenses—$81,200,000; acquisition, operation, and maintenance of buildings abroad—$28,000,000; and emergencies in the diplomatic and consular service (to pay rewards for information concerning terrorist acts)—$1,000,000.

[3] The Department of State Appropriations Act, 1984 (Public Law 98-166) appropriated $595,694,000 for "International Organizations and Conferences" during fiscal year 1984, itemized in the following manner: contributions to international organizations—$520,515,000; contributions to international peacekeeping activities—$66,279,000; and international conferences and contingencies—$8,910,000.

The Supplemental Appropriations Act, 1985 (Public Law 99-88) appropriated funds for the "Administration of Foreign Affairs" in the following manner: Salaries and expenses—$73,342,000 (plus $12,781,000 transferred from "Contributions to International Organizations); acquisition, operation, and maintenance of buildings abroad—$167,579,000 (plus $2,000,000 for the Special Foreign Currency Program); payment to the Foreign Service Retirement and Disability Fund—$5,399,000.

[4] The Department of State Appropriations Act, 1985 (title III of Public Law 98-411) appropriated $559,067,200 for "International Organizations and Conferences" during fiscal year 1985, itemized in the following manner: contributions to international organizations—$501,667,200; contributions to international peacekeeping activities—$47,400,000; and international conferences and contingencies—$10,000,000.

The Supplemental Appropriations Act, 1985 (Public Law 99-88) appropriated a $1,200,000 transfer of funds for International Fisheries Commissions from "Contributions to International Organizations", and $1,000,000 for the Fishermen's Protective Fund.

[5] The Department of State Appropriations Act, 1984 (Public Law 98-166) appropriated $23,625,000 for "International Commissions" during fiscal year 1984, itemized in the following manner: International Boundary and Water Commission, United States and Mexico (salaries and expenses)—$10,651,000 and (construction)—$672,000; American sections, international commissions—$3,426,000; and international fisheries commissions—$8,876,000.

Title II of the Second Supplemental Appropriations Act, 1984 (Public Law 98-396) appropriated additional funds for increased pay costs during fiscal year 1984 for "International Commissions" as follows: International Boundary and Water Commission, United States and Mexico—$125,000; and American Sections, international commissions—$38,000.

[6] The Department of State Appropriations Act, 1985 (title III of Public Law 98-411) appropriated $27,185,000 for "International Commissions" during fiscal year 1985, itemized in the following manner: International Boundary and Water Commission, United States and Mexico—$12,000,000 (salaries and expenses) and $2,400,000 (construction); American sections, international commissions—$3,685,000; and international fisheries commissions—$9,100,000.

(4) For "Migration and Refugee Assistance", $344,500,000 for the fiscal year 1984 [7] and $326,400,000 for the fiscal year 1985.[8]

(5) For "United States Bilateral Science and Technology Agreements", $1,700,000 for the fiscal year 1984 [9] and $1,700,000 for the fiscal year 1985.

IMPROVEMENT OF CONSULAR FACILITIES IN MEXICO CITY

Sec. 103. In addition to the amounts authorized to be appropriated by section 102(1) of this Act, there are authorized to be appropriated for "Administration of Foreign Affairs" for the fiscal year 1984, $4,000,000 to be used for the purchase of land for and the construction of additional consular facilities, and for certain improvements in existing consular facilities, at the United States Embassy in Mexico City, Mexico.

ADDITIONAL POSITIONS FOR POLITICAL AND ECONOMIC REPORTING AND FOR INTERNATIONAL COMMUNICATIONS AND INFORMATION POLICY

Sec. 104. The Secretary of State shall allocate such funds as may be necessary of the amounts appropriated to the Department of State for the fiscal year 1984 for "Administration of Foreign Affairs" in order to fund 73 additional positions for political and economic reporting and 11 additional positions for international communications and information policy. The positions funded pursuant to this section shall be in addition to the positions which the Department was authorized to have in fiscal year 1983 plus the number of additional positions which have been requested for the Department for the fiscal year 1984.

ALTERNATE COMMUNICATIONS CENTER

Sec. 105. Of the funds authorized to be appropriated under paragraph (1) of section 102, not less than $3,000,000 for the fiscal year 1984 and not less than $7,000,000 for the fiscal year 1985 shall be available only to cover expenses related to the establishment in the State of Maryland of an alternative communications center for the Department of State in order to secure the uninterrupted transmission of communications related to the foreign policy and national security interests of the United States and of communications of other departments and agencies of the United States.

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[7] The Foreign Assistance Appropriations Act, 1984 (sec. 101(b)(1) of Public Law 98-151) appropriated $323,000,000 for "Migration and Refugee Assistance" during fiscal year 1984.

In addition, supplemental funds for migration and refugee assistance during fiscal year 1984 were provided in two acts, as follows: Supplemental Appropriations, 1984 (Public Law 98-332)—$7,000,000 for assistance to displaced persons in El Salvador; and Second Supplemental Appropriations Act, 1984 (Public Law 98-396)—$7,650,000, of which $2,000,000 is available for "International disaster assistance" for medical and medically related assistance for Afghan refugees.

[8] The Foreign Assistance Appropriations Act, 1985 (sec. 101(g) of the Continuing Appropriations Act, 1985; (Public Law 98-473) appropriated $325,500,000 for "Migration and Refugee Assistance" during fiscal year 1985.

The Supplemental Appropriations Act, 1985 (Public Law 99-88, 99 Stat 329) transferred and additional amount of $12,500,000 for "migration and refugee assistance" from the "Economic Support Fund" for Lebanon as provided in Public Law 98-63: *Provided*, That this amount shall be available only for Soviet, Eastern European and other refugees resettling in Israel.

[9] The Department of State Appropriations Act, 1984 (Public Law 98-166) appropriated $1,683,000 for "United States Bilateral Science and Technology Agreements" during fiscal year 1984.

NATIONAL COMMISSION ON EDUCATIONAL, SCIENTIFIC, AND CULTURAL COOPERATION

Sec. 106. (a) Section 5 of the joint resolution entitled "Joint Resolution providing for membership and participation by the United States in the United Nations Educational, Scientific, and Cultural Organization, and authorizing an appropriation therefor", approved July 30, 1946 (22 U.S.C. 287q), is amended by repealing the eighth sentence.

(b) Of the amounts authorized to be appropriated for "Administration of Foreign Affairs" by section 102(1) of this Act, $250,000 for each of the fiscal years 1984 and 1985 shall be available only for the expenses of the secretariat of the National Commission on Educational, Scientific, and Cultural Cooperation.

COORDINATING COMMITTEE ON EXPORT CONTROLS

Sec. 107. Of the funds authorized to be appropriated for the fiscal year 1984 under paragraph (2) of section 102, $2,000,000 shall be used to modernize the facilities and operating procedures of the Coordinating Committee on Export Controls. The Congress finds that the executive branch should seek cost sharing arrangements with other member countries to modernize both the facilities and operations of the Coordinating Committee on Export Controls.

WORLD HERITAGE TRUST FUND

Sec. 108. Of the funds authorized to be appropriated by paragraph (2) of section 102, not less than $248,500 for each of the fiscal years 1984 and 1985 shall be available only for the United States contribution to the World Heritage Trust Fund.

INTERPARLIAMENTARY GROUPS

Sec. 109. (a) [10] * * *

(b) Of the amount appropriated for the purposes authorized by the amendment made by subsection (a) of this section, up to $25,000 may be used to meet the expenses incurred in hosting the spring 1984 meeting of the British-American Parliamentary Group which is to be held in the United States.

(c) [11] There are authorized to be appropriated for each fiscal year $50,000 for expenses of United States participation in the United States-European Community Interparliamentary Group.

PIRACY IN THE GULF OF THAILAND

Sec. 110. Of the amounts authorized to be appropriated for "Migration and Refugee Assistance" by section 102(4) of this Act,

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[10] Subsec. (a) amended the Act of July 11, 1956 (22 U.S.C. 1928e) authorizing U.S. participation in parliamentary conferences of the North Atlantic Treaty Organization. For text of this Act, see vol. IV, sec. N.

[11] Sec. 303 of the Department of State Appropriations Act, 1989 (Public Law 100–459, 102 Stat. 2207) extensively amended subsec. (c), to take effect October 1, 1988. It formerly read as follows:

"Of the amounts authorized to be appropriated for each fiscal year for 'International Organizations and Conferences' $50,000 may be used for expenses of United States participation in the United States-European Community Interparliamentary Group."

Subsec. (c) was amended previously by sec. 7(b) of Public Law 99–415, 100 Stat. 949.

$5,000,000 for each of the fiscal years 1984 and 1985 shall be used for assistance to combat piracy in the Gulf of Thailand.

RELIEF ASSISTANCE FOR EL SALVADOR AND LEBANON

Sec. 111. Notwithstanding any other provision of law, of the funds authorized to be appropriated for fiscal year 1984 under section 102(4) of this Act—

(1) $10,000,000 shall be available only for El Salvador for relief assistance for displaced persons; and

(2) up to $25,000,000, but not less than $5,000,000 shall be available only for Lebanon for relief and rehabilitation assistance for refugees and displaced persons.

WORLD INTELLECTUAL PROPERTY ORGANIZATION

Sec. 112. The joint resolution entitled "Joint Resolution to authorize appropriations incident to United States participation in the International Bureau for the Protection of Industrial Property", approved July 12, 1960 (22 U.S.C. 269(f)), is amended by striking out all after the resolving clause and inserting in lieu thereof the following: "That funds appropriated to the Secretary of State for 'International Organizations and Conferences' shall be available for the payment by the United States of its proportionate share of the expenses of the International Bureau for the Protection of Industrial Property for any year after 1981 as determined under article 16(4) of the Paris Convention for the Protection of Industrial Property, as revised, except that in no event shall the payment for any year exceed 6.6 percent of all expenses of the Bureau apportioned among countries for that year.".

RESTRICTION ON ASSESSED PAYMENTS TO THE UNITED NATIONS

Sec. 113. None of the funds authorized to be appropriated by this Act shall be used to make assessed payments to the United Nations, the United Nations Educational, Scientific, and Cultural Organization, the World Health Organization, the Food and Agriculture Organization, and the International Labor Organization which, in the aggregate, are in excess of the aggregate calendar year 1983 United States assessed contributions to such organizations.

RESTRICTIONS RELATING TO THE PALESTINE LIBERATION ORGANIZATION AND THE SOUTH WEST AFRICA PEOPLE'S ORGANIZATION

Sec. 114.[12] (a) Funds appropriated for any fiscal year for the Department of State for "International Organizations and Conferences" may not be used for payment by the United States, as its contribution toward the assessed budget of the United Nations for any year, of any amount which would cause the total amount paid by the United States as its assessed contribution for that year to exceed the amount assessed as the United States contribution for that year less—

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[12] 22 U.S.C. 287e note. Sec. 705 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204, 101 Stat. 1331) added subpar. (3) and redesignated the subpars. that follow. Subpars. (5), (6) and (7) were originally added as subpars. (4), (5), and (6) respectively by sec. 144 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99-93, 99 Stat. 405).

(1) 25 percent of the amount budgeted for that year for the Committee on the Exercise for the Inalienable Rights of the Palestinian People (for any similar successor entity);

(2) 25 percent of the amount budgeted for that year for the Special Unit on Palestinian Rights (for any similar successor entity);

(3) 25 percent of the amount budgeted for that year for the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories (or any similar successor entity);

(4) 25 percent of the amount budgeted for that year for projects whose primary purpose is to provide benefits to the Palestine Liberation Organization or entities associated with it or to the South West Africa People's Organization;

(5) 25 percent of the amount budgeted for that year for the Second Decade to Combat Racism and Racial Discrimination;

(6) 25 percent of the amount budgeted for any other United Nations agency or conference whose sole or partial purpose is to implement the provisions of General Assembly Resolution 33/79; and

(7) 25 percent of the amount budgeted for the General Assembly-approved $73,500,000 conference center to be constructed for the Economic Commission for Africa (ECA) in the Ethiopian capital of Addis Ababa.

(b) Funds appropriated for any fiscal year for the Department of State for "International Organizations and Conferences" may not be used for payment by the United States, as its contribution toward the assessed budget of any specialized agency of the United Nations for any year, of any amount which would cause the total amount paid by the United States as its assessed contribution for that year to exceed the amount assessed as the United States contribution for that year less 25 percent of the amount budgeted by such agency for that year for projects whose primary purpose is to provide benefits to the Palestine Liberation Organization or entities associated with it or to the South West Africa People's Organization.

(c) The President shall annually review the budgets of the United Nations and its specialized agencies to determine which projects have the primary purpose of providing benefits to the Palestine Liberation Organization or to the South West Africa People's Organization. The President shall report to the Congress on any such project for which a portion of the United States assessed contribution is withheld and the amount withheld.

(d) Subsections (a)(3) and (b) shall not be construed as limiting United States contributions to the United Nations or its specialized agencies for projects whose primary purpose is to provide humanitarian, educational, developmental, and other nonpolitical benefits.

UNITED STATES PARTICIPATION IN THE UNITED NATIONS IF ISRAEL IS ILLEGALLY EXPELLED

Sec. 115.[13] (a) The Congress finds that—

(1) the United Nations was founded on the principle of universality;

(2) the United Nations Charter stipulates that members may be suspended by the General Assembly only "upon the recommendation of the Security Council"; and

(3) any move by the General Assembly that would illegally deny Israel its credentials in the Assembly would be a direct violation of these provisions of the Charter.

(b)[14] If Israel is illegally expelled, suspended, denied its credentials, or in any other manner denied its right to participate in any principal or subsidiary organ or in any specialized, technical, or other agency of the United Nations, the United States shall suspend its participation in any such organ or agency until the illegal action is reversed. The United States shall reduce its annual assessed contribution to the United Nations or such specialized agency by 8.34 percent for each month in which United States participation is suspended pursuant to this section.[15] Nothing in this section may be construed to diminish or to affect United States participation in the United Nations Security Council or the Safeguards Program of the International Atomic Energy Agency.[16]

REVIEW OF UNITED STATES PARTICIPATION IN THE UNITED NATIONS

Sec. 116. (a) The Congress finds that—

(1) the United Nations was founded for the primary purpose of maintaining international peace and security by encouraging peaceful resolution of disputes and the development of friendly relations among nations;

(2) the United States, as a founding member of the United Nations and the largest contributor to the United Nations, became and remains a member of the United Nations in order to contribute to collective efforts among the nations of the world to realize the ends of international peace and security;

(3) the United States is committed to upholding and strengthening the principles and purposes of the United Nations Charter upon which the United Nations was founded.

(b) It is the sense of the Congress that—

(1) a review of United States participation in the United Nations is urgently called for with a view to examining—

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[13] 22 U.S.C. 287e note.

[14] The first sentence of subsec. (b) was amended and restated by sec. 704 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204, 101 Stat. 1331). It formerly read as follows:

"If Israel is illegally expelled, suspended, denied its credentials, or in any other manner denied its right to participate in the General Assembly of the United Nations or any specialized agency of the United Nations, the United States shall suspend its participation in the General Assembly or such specialized agency until the illegal action is reversed."

[15] Sec. 142 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99-93, 99 Stat. 405), substituted this sentence in lieu of the sentence: "The United States shall withhold payment of its assessed contribution to the United Nations or a specialized agency during any period in which United States participation is suspended pursuant to this section."

[16] The last sentence of subsec. (b) was added by sec. 704(b) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204, 101 Stat. 1331).

(A) the extent and levels of United States financial contributions to the United Nations;

(B) the importance of the United Nations, as presently constituted, to fulfilling the policies and objectives of the United States;

(C) the benefits derived by the United States from participation in the United Nations;

(2) the President should review and make recommendations to the Congress regarding the matters described in this section by June 30, 1984; and

(3) the Secretary of State should communicate to the member states of the General Assembly of the United Nations the policy contained in this section.

REPORT ON POLICIES PURSUED BY OTHER COUNTRIES IN INTERNATIONAL ORGANIZATIONS

Sec. 117.[17] The Secretary of State shall transmit to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate, by January 31 of each year, a report regarding the policies which each member country of the United Nations pursues in international organizations of which the United States is a member. The report shall describe generally each country's foreign policies as reflected in its activities in international organizations and shall detail their respective positions on major issues of interest to the United States, including key decisions relating to the budget of international organizations, together with the amount and type of foreign assistance (if any) made available by the United States for the preceding fiscal year to each such country under the Foreign Assistance Act of 1961, the Arms Export Control Act, the Export-Import Bank Act of 1945, and the Peace Corps Act.[18]

1985 CONFERENCE—UNITED NATIONS DECADE FOR WOMEN

Sec. 118. The President shall use every available means at his disposal to ensure that the 1985 Conference to commemorate the conclusion of the United Nations Decade for Women is not dominated by political issues extraneous to the goals of the 1985 Women's Conference that would jeopardize United States participation in and support for that Conference consistent with applicable legislation concerning United States contributions to the United Nations. Prior to the 1985 Conference, the President shall report to the Congress on the nature of the preparations, the adherence to the original goals of the Conference, and the extent of any continued United States participation and support for the Conference.

UNITED NATIONS WORLD ASSEMBLY ON AGING

Sec. 119. (a) The Congress finds that—

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[17] 22 U.S.C. 287b note.

[18] The words beginning in "together with" in the last sentence were added by sec. 707 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204, 101 Stat. 1331).

(1) in 1977 the Congress called for the United Nations to convene a World Assembly on Aging;

(2) the United Nations World Assembly on Aging was held in Vienna, Austria, from July 26 to August 6, 1982, and unanimously adopted the Vienna International Plan of Action on Aging on August 6, 1982, which called for the development of policies designed to enhance the individual lives of the aging and to allow the aging to enjoy their advancing years in peace, health, and security;

(3) the United Nations General Assembly on December 3, 1982, unanimously endorsed the World Assembly International Plan of Action; and

(4) the General Assembly of the United Nations, in adopting the plan, called upon governments to make continuous efforts to implement the principles and recommendations contained in the Plan of Action as adopted by the World Assembly on Aging.

(b) Therefore, it is the sense of the Congress that the President should take steps to—

(1) encourage government-wide participation in implementing the recommendations of the World Assembly and planning for the scheduled review in 1985 by the United Nations on the implementation of the Vienna International Plan of Action on Aging;

(2) encourage the exchange of information and the promotion of research on aging among the States, the Federal Government, international organizations, and other nations;

(3) encourage greater private sector involvement in responding to the concerns of the aging; and

(4) inform developing nations that the United States Government recognizes aging as an important issue, requiring close and sustained attention in national and regional development plans.

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COUNSELOR OF THE DEPARTMENT OF STATE

Sec. 125. (a)[19] * * *

(b)(1) Section 5314 of title 5, United States Code, is amended by inserting immediately after the item relating to the Under Secretaries of State the following:

"Counselor of the Department of State.".

(2) Section 5315 of such title is amended by striking out "Counselor of the Department of State."

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[19] Subsec. (a) amended sec. 2 of "An Act to strengthen and improve the organization and administration of the Department of State" (22 U.S.C. 2653) in order to remove the Counselor of the Department of State from equal rank with Assistant Secretaries so that the Counselor would rank equally with the Under Secretaries. The amendments in subsec. (b) to title 5, U.S.C., changed the salary level of the Counselor from Executive Level IV to Executive Level III.

FOREIGN NATIONAL EMPLOYEES

Sec. 127. (a)[20] * * *

(b)[21] (1) Section 5944 of title 5, United States Code, is repealed.

(2) The chapter analysis for chapter 59 of such title 5 is amended by striking out the item relating to section 5944.

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MERGER OF FOREIGN SERVICE INFORMATION CORPS WITH FOREIGN SERVICE CORPS

Sec. 130. (a)[22] * * *

(b)[22] * * *

(c) Not later than one year after the date of enactment of this section, the Secretary of State shall submit a report to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate describing the policies and procedures adopted pursuant to the amendment made by subsection (b).

DANGER PAY

Sec. 131.[23] Section 5928 of title 5, United States Code, is amended by adding at the end thereof the following: "The presence of nonessential personnel or dependents shall not preclude payment of an allowance under this section. In each instance where an allowance under this section is initiated or terminated, the Secretary of State shall inform the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate of the action taken and the circumstances justifying it.".

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FOREIGN RELATIONS PUBLICATIONS

Sec. 133. (a) The Congress expresses concern about the excessive delays currently experienced in the publication of the Department of State's vital series of historical volumes, "The Foreign Relations of the United States". It is the sense of the Congress that the current delays must be substantially reduced so that publication of this series will occur after twenty years, and no later than twenty-five years, from the date of the events themselves.

(b) The Historian of the Department of State shall prepare and submit a report within three months after the date of enactment of this Act to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives explaining the reasons for these delays and the steps which would be required to reach the goal of publication within twenty-five years.

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[20] Subsec. (a) amended sec. 408(a)(1) of the Foreign Service Act of 1980 in order to clarify the Secretary of State's authority to utilize provident funds (retirement benefits) for foreign national employees of the United States Government. For text, see page 290.

[21] 5 U.S.C. 5944 concerned payment of burial expenses for foreign national employees of the United States Government. This provision was superseded by sec. 408 of the Foreign Service Act of 1980. For text, see page 290.

[22] Subsecs. (a) and (b) amended secs. 102 and 502, respectively, of the Foreign Service Act of 1980. These provisions changed the designation of members of the Foreign Service Information Officers to Foreign Service Officers and directed the Secretary of State to implement policies to insure that Foreign Service Officers from all agencies are able to compete for chief of missions positions on an equal basis.

[23] 5 U.S.C. 5928 concerned danger pay allowances for United States Government employees serving in certain foreign areas.

UNITED STATES DIPLOMATIC RELATIONS WITH THE VATICAN

Sec. 134.[24] In order to provide for the establishment of United States diplomatic relations with the Vatican, the Act entitled "An Act making Appropriations for the Consular and Diplomatic Expenses of the Government for the Year ending thirtieth June, eighteen hundred and sixty-eight, and for other purposes", approved February 28, 1867, is amended by repealing the following sentence (14 Stat. 413): "And no money hereby or otherwise appropriated shall be paid for the support of an American legation at Rome, from and after the thirtieth day of June, eighteen hundred and sixty-seven.".

USE OF HERBICIDES CONTAINING DIOXIN COMPOUNDS BY INTERNATIONAL COMMISSIONS

Sec. 135. (a) Notwithstanding any other provision of law, none of the funds made available under this Act for "International Commissions" for the fiscal year 1984 and the fiscal year 1985 shall be available for the use, by such commissions or their agents, of herbicides containing dioxin compounds.

(b) Unless the Committee on Foreign Relations and the Committee on Environment and Public Works of the Senate, the Committee on Foreign Affairs of the House of Representatives, and the Governors of the affected border States are notified forty-five days in advance of the use of a herbicide by an international commission, funds appropriated for such use shall not be available for obligation or expenditure. Such notification shall include—

(1) the name of the herbicide;

(2) an estimate of the quantity of herbicide planned for use;

(3) an identification of the area on which the herbicide will be used; and

(4) a description of the herbicide's chemical composition.

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TITLE II—UNITED STATES INFORMATION AGENCY [25]

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TITLE III—BOARD FOR INTERNATIONAL BROADCASTING [26]

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TITLE IV—THE ASIA FOUNDATION [27]

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[24] 22 U.S.C. 2656 note.

[25] For free-standing provisions of this title, see page 633.

[26] This title contained amendments to the Board for International Broadcasting Act of 1973 and free-standing provisions. See page 752.

[27] Title IV is cited as the Asia Foundation Act. For text, see page 582.

TITLE V—NATIONAL ENDOWMENT FOR DEMOCRACY [28]

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TITLE VI—FOREIGN MISSIONS [29]

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TITLE VII—INTERNATIONAL ENVIRONMENTAL PROTECTION [30]

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TITLE VIII—SOVIET-EASTERN EUROPEAN RESEARCH AND TRAINING [31]

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TITLE IX—UNITED STATES-INDIA FUND FOR CULTURAL, EDUCATIONAL, AND SCIENTIFIC COOPERATION [32]

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TITLE X—MISCELLANEOUS PROVISIONS

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TERMINATION OF ASSISTANCE PROGRAMS FOR SYRIA

Sec. 1004.[33] (a) After the enactment of this section, funds available to the Agency for International Development may not be used for any payment or reimbursement of any kind to the Government of Syria or for the delivery of any goods or services of any kind to the Government of Syria.

(b) The Administrator of the Agency for International Development shall deobligate all funds which have been obligated for Syria under the Foreign Assistance Act of 1961 prior to the enactment of this section, except that—

(1) such funds may continue to be used to finance the training or studies outside of Syria of students whose course of study began before the enactment of this section;

(2) the Administrator may adopt as a contract of the United States Government any contract with a United States or third-country contractor which would otherwise be terminated pursuant to this subsection, and may assume in whole or in part any liabilities arising under such contract, except that the authority provided by this paragraph may be exercised only to

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[28] Title V is cited as the National Endowment for Democracy Act. For text, see page 690.

[29] Title VI contained amendments to the Diplomatic Relations Act and to the State Department Basic Authorities Act of 1956. Free-standing provisions in the title are cited as the Foreign Missions Amendments Act of 1983. For text, see page 229.

[30] Title VII amended the Foreign Assistance Act of 1961, the Mutual Educational and Cultural Exchange Act of 1961, and is cited as the International Environmental Protection Act of 1983. For text, see vol. IV, sec. L.

[31] Title VIII is cited as the Soviet-Eastern European Research and Training Act of 1983. For text, see page 696.

[32] Title IX is cited as the United States-India Fund for Cultural, Educational, and Scientific Cooperation Act. For text, see page 704.

[33] 22 U.S.C. 2346a note.

the extent that budget authority is available to meet the obligations of the United States under such contracts; and

(3) amounts certified pursuant to section 1311 of the Supplemental Appropriation Act, 1955,[34] as having been obligated for Syria under chapter 4 of part II of the Foreign Assistance Act of 1961 shall continue to be available until expended to meet necessary expenses arising from the termination of assistance programs for Syria pursuant to this subsection.

PROHIBITION ON CERTAIN ASSISTANCE TO THE KHMER ROUGE IN KAMPUCHEA

Sec. 1005.[35] (a) Notwithstanding any other provision of law, none of the funds authorized to be appropriated by this Act or any other Act may be obligated or expended for the purpose or with the effect of promoting, sustaining, or augmenting, directly or indirectly, the capacity of the Khmer Rouge or any of its members to conduct military or paramilitary operations in Kampuchea or elsewhere in Indochina.

(b) All funds appropriated before the date of enactment of this section which were obligated but not expended for activities having the purpose or effect described in subsection (a) shall be deobligated and shall be deposited in the Treasury of the United States as miscellaneous receipts.

(c) This section shall not be construed as limiting the provision of food, medicine, or other humanitarian assistance to the Kampuchea people.

RAOUL WALLENBERG AND JAN KAPLAN

Sec. 1006. (a) The Congress finds that—

(1) the Soviet Union arrested one of the great heroes of modern times in 1945 when they arrested Raoul Wallenberg;

(2) Raoul Wallenberg was a Swedish diplomat who, at great personal risk, had acted to save hundreds of thousands of Hungarian Jews from the Nazi Holocaust;

(3) Raoul Wallenberg took these actions as a humanitarian and with the knowledge, consent, and financial assistance of the United States Government;

(4) Raoul Wallenberg has recently been made an honorary citizen of the United States;

(5) the Soviet Union has changed their story a number of times about the whereabouts of Raoul Wallenberg;

(6) the most recent position of the Soviet Union is that he died in 1947;

(7) there are many eyewitnesses who have testified that they saw Raoul Wallenberg in Russian prisons and hospitals in the decades since the 1940's;

(8) one of the most recent eyewitnesses was Jan Kaplan, a Russian refusnik who shortly after his release from a Soviet jail in 1977, phoned his daughter, Doctor Anna Bilder, in Israel

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[34] Now codified as 31 U.S.C. 1108. For text, see vol. I, page 588.

[35] 22 U.S.C. 2151 note.

and reported that he had met a Swede in prison who had survived thirty years in the Gulag;

(9) during the next two years, Anna Bilder received no further word from or about her father;

(10) in July 1977, Jan Kaplan's wife smuggled a letter to Doctor Bilder informing her that Jan Kaplan had been rearrested because of a letter he had tried to smuggle to her about Raoul Wallenberg;

(11) in 1980, the Swedish Government sent an official request to interview Jan Kaplan;

(12) the Soviets made no response to this request;

(13) the whereabouts of Jan Kaplan are not known; and

(14) Jan Kaplan could provide valuable information about Raoul Wallenberg.

(b) It is the sense of the Congress that the President, acting directly or through the Secretary of State, should take all possible steps at all appropriate times to ascertain that whereabouts of Jan Kaplan and to request an interview with him in order to learn more concerning the whereabouts of Raoul Wallenberg.

POLICY TOWARD THE EXPORT OF NUCLEAR-RELATED EQUIPMENT, MATERIALS, OR TECHNOLOGY TO INDIA, ARGENTINA, AND SOUTH AFRICA

Sec. 1007. (a) It is the sense of Congress that the United States Government should disapprove the export of, and should suspend or revoke approval for the export of, any nuclear-related equipment, material, or technology, including nuclear components and heavy water, to the Government of India, Argentina, or South Africa until such time as such government gives the Government of the United States stronger nuclear nonproliferation guarantees. Such guarantees should include—

(1) reliable assurances by such government that it is not engaged in any program leading to the development, testing, or detonation of nuclear explosive devices; and

(2) agreement by such government to accept international safeguards on all its nuclear facilities.

(b) If the President determines, in the case of India's Tarapur reactor, while it is under International Atomic Energy Agency inspection, that certain equipment or non-nuclear material or technology is necessary for humanitarian reasons to protect the health and safety of operations and is not available from a foreign supplier, the President may authorize the export of such equipment or non-nuclear material or technology.

ACID RAIN

Sec. 1008. (a) The Congress finds the following:

(1) Acid deposition, commonly known as "acid rain" is believed to have caused serious damage to the natural environment in large parts of Canada and the United States and has raised justified concerns among citizens of both countries.

(2) Acid rain is believed to have caused billions of dollars of damage annually to both natural and man-made materials. It damages crops and the forest which support 25 percent of the

Canadian economy and much of our own. It threatens marine life in fresh water lakes, rivers, and streams.

(3) The principal sources of acid rain are believed to be emissions resulting from power generation, industrial production, mineral smelters, and automobile transportation which originate in both the United States and Canada and which affect the environment of the other.

(4) Section 612 of the Foreign Relations Authorization Act, Fiscal Year 1979, called upon the President to "make every effort to negotiate a cooperative agreement with the Government of Canada aimed at preserving the mutual airshed of the United States and Canada so as to protect and enhance air resources".

(5) On August 5, 1980, the Governments of Canada and the United States signed a Memorandum of Intent committing both parties "to develop a bilateral agreement which will reflect and further the development of effective domestic control programs and other measures to combat transboundary air pollution," and, as an interim action, committing both parties to "promote vigorous enforcement of existing laws and regulations" and "to develop domestic air pollution control policies and strategies, and as necessary and appropriate, seek legislative or other support to give effect to them".

(6) The Government of Canada has made a formal offer to reduce eastern emissions of sulfur dioxide by 50 percent by 1990 should the United States make a comparable commitment.

(7) Both the United States and Canada have taken steps to reduce transboundary pollutants. Present United States air emission standards are the most stringent in the world. In the past decade, the United States has reduced sulfur dioxide emissions by 15 percent. However, the failure of the United States to respond in a timely manner to concerns about transboundary air pollution would harm the historically close relations between the United States and Canada.

(8) The strategies and techniques adopted to control air pollution emissions should weigh heavily on the employment and other economic effects on employment in the United States and Canada of the acid precipitation, electricity generation, manufacture, distribution and installation of pollution control equipment, and any curtailment of emission producing industrial activity.

(b) It is therefore the sense of the Congress that the President should—

(1) respond constructively to the Canadian offer on air pollution emissions;

(2) proceed to negotiate as expeditiously as possible a bilateral agreement with Canada providing for significant reductions in transboundary air pollution while keeping economic dislocations in both countries to the minimum possible; and

(3) consider prompt initiation of a joint Government-supported program to develop new cost-effective technologies that will facilitate reduction of sulfur dioxide emissions and other copollutants;

(4) instruct the Secretary of State to report to the Congress no later than December 1, 1983, on the progress toward achieving a new transboundary air pollution agreement, including a cooperative program on new technologies.

INTERNATIONAL AGREEMENTS ON NATURAL GAS

Sec. 1009. (a) The Congress finds that—

(1) the foreign policy and economic well-being of the United States depend on mutually beneficial relationships with our trading partners throughout the world;

(2) America's present economic difficulties have been caused in part by the huge increases in the price of energy, especially imported energy, during the 1970's;

(3) at a time when prices for other forms of energy are stabilizing or falling, the burner-tip price of natural gas continues to rise throughout the United States;

(4) the high price of natural gas is a severe hardship for low-income persons, the elderly, the agricultural industry, small businesses, and other consumers without alternative fuel sources;

(5) high-priced imported natural gas is a major factor contributing to these price increases;

(6) imports of high-priced natural gas continue at prices above fair market levels, despite the increased availability of uncommitted and ample supplies of lower priced domestic gas;

(7) it is in the interest of the United States to continue to import natural gas from secure sources in whatever quantity consumers require, as long as the price is fair;

(8) the principles of free and fair international trade require that natural gas prices and terms of trade be made fair to all trading partners; and

(9) the immediacy of this problem requires the prompt and serious attention of all parties involved.

(b) It is the sense of the Congress that—

(1) the United States Government should move immediately to promote lower prices and fair market conditions for imported natural gas; and

(2) within thirty days after the date of enactment of this section, the Secretary of State, with the assistance of the Secretary of Energy, should prepare and transmit to the Congress a report on the progress made in achieving lower prices and fair market conditions for imported natural gas.

PREPUBLICATION REVIEW OF WRITINGS OF FORMER FEDERAL EMPLOYEES

Sec. 1010. The head of a department or agency of the Government may not, before April 15, 1984, enforce, issue, or implement any rule, regulation, directive, policy, decision, or order which (1) would require any officer or employee to submit, after termination of employment with the Government, his or her writings for prepublication review by an officer or employee of the Government, and (2) is different from the rules, regulations, directives, policies, decisions, or orders (relating to prepublication review of such writings) in effect on March 1, 1983.

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EXTENDED VOLUNTARY DEPARTURE STATUS FOR CERTAIN EL SALVADORANS

Sec. 1012. (a) The Congress finds that—

(1) ongoing fighting between the military forces of the Government of El Salvador and opposition forces is creating potentially life-threatening situations for innocent nationals of El Salvador;

(2) thousands of El Salvadoran nationals have fled from El Salvador and entered the United States since January 1980;

(3) currently the United States Government is detaining these nationals of El Salvador for the purpose of deporting or otherwise returning them to El Salvador, thereby irreparably harming the foreign policy image of the United States;

(4) deportation of these nationals could be temporarily suspended, until it became safe to return to El Salvador, if they are provided with extended voluntary departure status; and

(5) such extended voluntary departure status has been granted in recent history in cases of nationals who fled from Vietnam, Laos, Iran, and Nicaragua.

(b) Therefore, it is the sense of the Congress that—

(1) the Secretary of State should recommend that extended voluntary departure status be granted to aliens—

(A) who are nationals of El Salvador,

(B) who have been in the United States since before January 1, 1983,

(C) who otherwise qualify for voluntary departure (in lieu of deportation) under section 242(b) or 244(e) of the Immigration and Nationality Act (8 U.S.C. 1252(b) and 1254(e)), and

(D) who were not excludable from the United States at the time of their entry on any ground specified in section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) other than the grounds described in paragraphs (14), (15), (20), (21), and (25); and

(2) such status should be granted to those aliens until the situation in El Salvador has changed sufficiently to permit their safely residing in that country.

EXPEDITED PROCEDURES FOR CERTAIN JOINT RESOLUTIONS AND BILLS

Sec. 1013.[36] Any joint resolution or bill introduced in either House which requires the removal of United States Armed Forces engaged in hostilities outside the territory of the United States, its possessions and territories, without a declaration of war or specific statutory authorization shall be considered in accordance with the procedures of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976, except that any such resolution or bill shall be amendable. If such a joint resolution or bill should be vetoed by the President, the time for debate in consideration of the veto message on such measure shall be limited to twenty hours in the Senate and in the House shall be determined in accordance with the Rules of the House.

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[36] 50 U.S.C. 1546a.

d. Department of State Authorization Act, Fiscal Years 1982 and 1983

Partial text of Public Law 97-241 [S. 1193], 96 Stat. 273, approved August 24, 1982, as amended by Public Law 98-164 [H.R. 2915], 97 Stat. 1017 at 1030, approved November 22, 1983

AN ACT To authorize appropriations for fiscal years 1982 and 1983 for the Department of State, the International Communication Agency, and the Board for International Broadcasting, and for other purposes.

NOTE.—Sections in this Act amend other State Department and foreign relations legislation and are incorporated elsewhere in this compilation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—DEPARTMENT OF STATE

SHORT TITLE

Sec. 101. This title may be cited as the "Department of State Authorization Act, Fiscal Years 1982 and 1983".

AUTHORIZATIONS OF APPROPRIATIONS

Sec. 102. There are authorized to be appropriated for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States and other purposes authorized by law, the following amounts:

(1) For "Administration of Foreign Affairs", $1,245,637,000 for the fiscal year 1982 [1] and $1,248,059,000 for the fiscal year 1983.[2]

(2) For "International Organizations and Conferences", $503,462,000 for the fiscal year 1982 [3] and $514,436,000 for the fiscal year 1983.[4]

(3) For "International Commissions", $19,808,000 for the fiscal year 1982 [5] and $22,432,000 for the fiscal year 1983.[6]

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[1] Sec. 101(h) of Continuing Appropriations, 1982 (Public Law 97-92, 95 Stat. 1183) and H.R. 4169, as passed by the House and made part of Public Law 97-92, appropriated $1,176,381,000 for the "Administration of Foreign Affairs" during fiscal year 1982, itemized in the following manner: salaries and expenses—$890,758,000; representation allowances—$3,570,000; acquisition, operation, and maintenance of buildings abroad—$185,970,000; acquisition, operation and maintenance of buildings abroad (special foreign currency program)—$9,102,000; emergencies in the diplomatic and consular service—$4,400,000; buying power maintenance—$1,500,000; payment to the American Institute in Taiwan—$7,884,000; and payment to the Foreign Service Retirement and Disability Fund—$73,197,000.

Subsequently, the Supplemental Appropriations Act, 1982 (Public Law 97-257, 96 Stat. 819 at 822), provided the following additional amounts: salaries and expenses—$37,978,000, of which $31,228,000 shall remain available until Sept. 30, 1984; acquisition, operation, and maintenance of buildings abroad—$17,655,000, to remain available until Sept. 30, 1984; payment to the American Institute in Taiwan—$244,000; and payment to the Foreign Service Retirement and Disability Fund—$4,615,000.

[2] Sec. 101(d) of the Further Continuing Appropriations Act, 1983 (Public Law 97-377, 96 Stat. 1830 at 1876) and S. 2956, as reported in the Senate on Sept. 24, 1982, and made part of Public Law 97-377, appropriated $1,310,232,000 for "Administration of Foreign Affairs" during fiscal year 1983, itemized in following manner: salaries and expenses—$995,000,000; reopening consulates—$1,000,000; representation allowances—$3,876,000; acquisition, operation, and maintenance of buildings abroad—$193,040,000; acquisition, operation, and maintenance of buildings abroad (special foreign currency program)—$8,360,000; emergencies in the diplomatic and consular service—$4,400,000; buying power maintenance—$4,500,000; payment to the American Institute in Taiwan—$8,744,000; and payment to the Foreign Service Retirement and Disability Fund—$91,312,000.

In addition to the regular fiscal year 1983 appropriation of $1,310,232,000 for the "Administration of Foreign Affairs" contained in Public Law 97-377, the Supplemental Appropriations Act, 1983 (Public Law 98-63) provided the following amounts: salaries and expenses—$7,985,000; acquisition, operation, and maintenance of buildings abroad—$22,256,000; payment to the Foreign Service Retirement and Disability Fund—$4,658,000; and salaries and expenses (increased pay costs)—$21,711,000, of which $8,111,000 was derived by transfer from contributions to the international organizations.

[3] Sec. 101(h) of the Continuing Appropriations Act, 1982 (Public Law 97-92, 95 Stat. 1183) and H.R. 4169, as passed by the House and made part of Public Law 97-92, appropriated $466,462,000 for "International Organizations and Conferences" during fiscal year 1982 itemized in the following manner: contributions to international organizations—$398,240,000 including funds for the payment of assessed contributions to the Pan American Health Organization, and to reimburse the Pan American Health Organization for payments under the tax equalization program for employees who are U.S. citizens; contributions for international peacekeeping activities—$60,938,000; international conferences and contingencies—$7,284,000.

[4] Sec. 101(d) of the Further Continuing Appropriations Act, 1983 (Public Law 97-377, 96 Stat. 1830 at 1877), and S. 2956, as reported in the Senate on Sept. 24, 1982, and made part of Public Law 97-377, appropriated $526,915,000 for "International Organizations and Conferences" during fiscal year 1983 itemized in the following manner: contributions to international organizations—$444,315,000, of which $12,506,000 shall be for payment of the full 1983 assessed contributions to the Inter-American Institute for Cooperation on Agriculture; contributions for international peacekeeping activities—$73,400,000, of which not more than $50,000,000 shall be available for contributions to a United Nations Transition Assistance Group, upon a determination by the President; and international conferences and contingencies—$9,200,000.

[5] Sec. 101(h) of the Continuing Appropriations Act, 1982 (Public Law 97-92 , 95 Stat. 1183), and H.R. 4169, as passed by the House and made part of Public Law 97-92, appropriated $20,197,000 for "International Commissions" during fiscal year 1982 itemized in the following manner: International Boundary and Water Commission, United States and Mexico, salaries and expenses—$7,927,000, and for detailed plan preparation and construction of authorized projects—$1,186,000; American sections, international commissions—$2,847,000; and international fisheries commissions—$8,237,000. Subsequently, the Supplemental Appropriations Act, 1982 (Public Law 97-257, 96 Stat. 819 at 823) provided the following additional amounts: American Sections, International Commissions—$95,000 for the International Joint Commission to remain available until Sept. 30, 1983.

[6] Sec. 101(d) of the Further Continuing Appropriations Act, 1983 (Public Law 97-377, 96 Stat. 1830 at 1866), and S. 2956, as reported in the Senate on Sept. 24, 1982 and made part of Public Law 97-377, appropriated $20,198,000 for "International Commissions" during fiscal year 1983

Continued

(4) For "Migration and Refugee Assistance", $504,100,000 for the fiscal year 1982 [7] and $460,000,000 for the fiscal year 1983.[8]

REOPENING CERTAIN UNITED STATES CONSULATES

Sec. 103. (a) Notwithstanding any other provision of law, $400,000 of the funds available for the fiscal year 1982 for "Salaries and Expenses" of the Department of State are hereby reprogrammed for, and shall be used by the Department for, the expenses of operating and maintaining the consulates specified in subsection (c) of this section.[9]

(b) None of the funds made available under this or any other Act for "Administration of Foreign Affairs" may be used for the establishment or operation of any United States consulate that did not exist on the date of enactment of this Act (other than the consulates specified in subsection (c)) until all the United States consulates specified in subsection (c) have been reopened as required by section 108 of the Department of State Authorization Act, Fiscal Years 1980 and 1981, to the extent such reopening is authorized by the foreign government involved. A report shall be made to the

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itemized in the following manner: International Boundary and Water Commission, United States and Mexico—$8,754,000; American sections, international commissions—$2,918,000; and international fisheries commissions—$8,526,000.

In addition to the regular fiscal year 1983 appropriation of $20,198,000 contained in Public Law 97-377, the Supplemental Appropriations Act, 1983 (Public Law 98-63) provided $174,000 for the International Boundary and Water Commission, United States and Mexico, for increased pay costs.

[7] Foreign Assistance and Related Programs Appropriations Act, 1982 (Public Law 97-121, 95 Stat. 1652), provided the following:

"For expenses, not otherwise provided for, necessary to enable the Secretary of State to provide, as authorized by law, a contribution to the International Committee of the Red Cross and assistance to refugees, including contributions to the Intergovernmental Committee for European Migration and the United Nations High Commissioner for Refugees; salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1980, allowances as authorized by sections 5921 through 5925 of title 5, United States Code; hire of passenger motor vehicles; and services as authorized by section 3109 of title 5, United States Code, $503,000,000: *Provided,* That $30,000,000 of this amount shall be transferred to the Agency for International Development to be used only for resettlement services and facilities for refugees and displaced persons in Africa: *Provided further,* That $5,000,000 of this amount shall be used for assistance for persons displaced by strife in El Salvador as provided in H.R. 3566 as reported May 19, 1981: *Provided further,* That these funds shall be administered in a manner that insures equity in the treatment of all refugees receiving Federal assistance: *Provided further,* That no funds herein appropriated shall be used to assist directly in the migration to any nation in the Western Hemisphere of any person not having a security clearance based on reasonable standards to insure against Communist infiltration in the Western Hemisphere: *Provided further,* That not more than $7,426,000 of the funds appropriated under this heading shall be available for the administrative expenses of the Office of Refugee Programs of the Department of State."

[8] Appropriations for "Migration and Refugee Assistance", as well as all foreign assistance programs, during fiscal year 1983 are included in the Further Continuing Appropriations Act, 1983 (Public Law 97-377). Under the terms of this Act, appropriations for foreign aid are set at the rates and conditions provided in Public Law 97-121, Foreign Assistance Appropriations Act of 1982, except for certain programs. The exceptions to Public Law 97-121 are stated in the Further Continuing Appropriations Act, 1983, which includes the following: "$395,000,000 for 'Migration and Refugee Assistance' (without applying prior year earmarking of funds)." See footnote 7 above for text of the terms and conditions stipulated in Public Law 97-121 for migration and refugee assistance.

[9] Sec. 307 of Supplemental Appropriations Act, 1982, (Public Law 97-257, 96 Stat. 875) provided the following:

"Sec. 307. Notwithstanding any other provision of law, none of the funds made available by this or any other Act, heretofore or hereafter enacted, may be used to carry out section 103 and section 305(d)(3) of S. 1193 An Act to authorize appropriations for fiscal years 1982 and 1983 for the Department of State, the International Communication Agency and the Board for International Broadcasting, and for other purposes, unless reprogrammed in accordance with the procedures established by the Committees on Appropriations of the House and Senate."

Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives concerning the extent to which such foreign government authorization has been received, and the progress achieved with respect to the reopening of the specified consulates.[10]

(c) The consulates referred to in subsections (a) and (b) of this section are the consulates in the following locations: Turin, Italy; Salzburg, Austria; Goteborg, Sweden; Bremen, Germany; Nice, France; Mandalay, Burma; and Brisbane, Australia.

RESTRICTIONS RELATING TO PALESTINIAN RIGHTS UNITS AND PROJECTS PROVIDING POLITICAL BENEFITS TO THE PALESTINE LIBERATION ORGANIZATION

Sec. 104. (a) Funds appropriated under paragraph (2) of section 102 of this Act may not be used for payment by the United States, as its contribution toward the assessed budget of the United Nations for any year, of any amount which would cause the total amount paid by the United States as its assessed contribution for that year to exceed the amount assessed as the United States contribution for that year less—

(1) 25 percent of the amount budgeted for that year for the Committee on the Exercise for the Inalienable Rights of the Palestinian People (or any similar successor entity); and

(2) 25 percent of the amount budgeted for that year for the Special Unit on Palestinian Rights (or any similar successor entity); and

(3) 25 percent of the amount budgeted for that year for projects whose primary purpose is to provide political benefits to the Palestine Liberation Organization or entities associated with it.

(b) Funds appropriated under paragraph (2) of section 102 of this Act may not be used for payment by the United States, as its contribution toward the assessed budget of any specialized agency of the United Nations for any year, of any amount which would cause the total amount paid by the United States as its assessed contribution for that year to exceed the amount assessed as the United States contribution for that year less 25 percent of the amount budgeted by such agency for that year for projects whose primary purpose is to provide political benefits to the Palestine Liberation Organization or entities associated with it.

(c)[11] The President shall annually review the budgets of the United Nations and its specialized agencies to determine which projects have the primary purpose of providing political benefit to the Palestine Liberation Organization. The President shall report to the Congress on any such project for which a portion of the United States assessed contribution is withheld and the amount withheld.

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[10] The phrase ", to the extent such reopening is authorized by the foreign government involved" and the final sentence of subsec. (b) were added by sec. 137 of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98-164, 97 Stat. 1030).

[11] Sec. 3 of Executive Order 12374 (July 28, 1982; 47 F.R. 32903), as amended by Executive Order 12408 (Feb. 23, 1983; 48 F.R. 8035) stated that the functions vested in the President under this subsection are delegated to the Secretary of State. Executive Order 12408 was revoked by Executive Order 12553.

(d) Subsections (a)(3) and (b) shall not be construed as limiting United States contributions to the United Nations, or its specialized agencies, for projects whose primary purpose is to provide humanitarian, educational, developmental, and other nonpolitical benefits to the Palestinian people.

PAYMENT OF ASSESSED CONTRIBUTIONS FOR CERTAIN INTERNATIONAL ORGANIZATIONS

Sec. 105. (a) Funds authorized to be appropriated for the fiscal year 1982 by paragraph (2) of section 102 of this Act shall be used for payment of the entire amount payable for the United States contribution for the calendar year 1982 to the Organization of American States, to the Pan American Health Organization, and to the Inter-American Institute for Cooperation on Agriculture.

(b) Funds authorized to be appropriated for the fiscal year 1983 by paragraph (2) of section 102 of this Act shall be used for payment of the entire amount payable for the United States contribution for the calendar year 1983 to the Organization of American States, to the Pan American Health Organization, and to the Inter-American Institute for Cooperation on Agriculture.

(c) For purposes of this section, the term "United States contribution" means the United States assessed contribution to the budget of the Organization of American States, the Pan American Health Organization, or the Inter-American Institute for Cooperation on Agriculture, as the case may be, plus amounts required to be paid by the United States or minus amounts credited to the United States (as appropriate) under that organization's tax equalization program.

INTERNATIONAL COMMITTEE OF THE RED CROSS

Sec. 106. Of the amounts authorized to be appropriated by paragraph (4) of section 102 of this Act, $1,500,000 shall be available for the fiscal year 1982 and $1,500,000 shall be available for the fiscal year 1983 only for the International Committee of the Red Cross to support the activities of the protection and assistance program for "political" detainees.

ASSISTANCE FOR REFUGEES SETTLING IN ISRAEL

Sec. 107. Of the amounts authorized to be appropriated by paragraph (4) of section 102 of this Act, $12,500,000 for the fiscal year 1982 and $16,875,000 for the fiscal year 1983 shall be available only for assistance for the resettlement in Israel of refugees from the Union of Soviet Socialist Republics, from Communist countries in Eastern Europe, and from other countries.

UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION

Sec. 108. (a) The Congress finds that—

(1) a free press is vital to the functioning of free governments;

(2) Article 19 of the Universal Declaration of Human Rights provides for the right to freedom of expression and to "seek,

receive, and impart information and ideas through any media and regardless of frontiers";

(3) the Constitution of the United Nations Educational, Scientific and Cultural Organization provides for the promotion of "the free flow of ideas by word and image";

(4) the signatories of the Final Act of the Conference on Security and Cooperation in Europe (Helsinki, 1975) pledged themselves "to facilitate the freer and wider dissemination of information of all kinds, to encourage co-operation in the field of information and the exchange of information with other countries, and to improve the conditions under which journalists from one participating State exercise their profession in another participating State"; and

(5) government censorship, domination, or suppression of a free press is a danger to free men and women everywhere.

(b) Therefore, it is the sense of the Congress that the United Nations Educational, Scientific and Cultural Organization should cease efforts to attempt to regulate news content and to formulate rules and regulations for the operation of the world press.

(c) The Congress opposes efforts by some countries to control access to and dissemination of news.

(d)[11] The President shall evaluate and, not later than six months after the date of enactment of this Act, shall report to the Congress his assessment of—

(1) the extent to which United States financial contributions to the United Nations Educational, Scientific and Cultural organization, and the extent to which the programs and activities of that Organization, serve the national interests of the United States;

(2) the programs and activities of the United Nations Educational, Scientific and Cultural Organization, especially its programs and activities in the communications sector; and

(3) the quality of United States participation in the United Nations Educational, Scientific and Cultural Organization, including the quality of United States diplomatic efforts with respect to that Organization, the quality of United States representation in the Secretariat of that Organization, and the quality of recruitment of United States citizens to be employed by that Organization.

Such report should include the President's recommendations regarding any improvements which should be made in the quality and substance of United States representation in the United Nations Educational, Scientific and Cultural Organization.

RESTRICTION ON CONTRIBUTIONS TO THE UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION

Sec. 109.[12] (a) None of the funds authorized to be appropriated by paragraph (2) of section 102 of this Act or by any other Act for "International Organizations and Conferences" may be used for payment by the United States of its contribution toward the assessed budget of the United Nations Educational, Scientific and

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[12] 22 U.S.C. 287c note.

Cultural Organization if that organization implements any policy or procedure the effect of which is to license journalists or their publications, to censor or otherwise restrict the free flow of information within or among countries, or to impose mandatory codes of journalistic practice or ethics.

(b) Not later than February 1 of each year, the Secretary of State shall report to the Congress with respect to whether the United Nations Educational, Scientific and Cultural Organization has taken any action described in subsection (a) of this section.

BILATERAL SCIENCE AND TECHNOLOGY AGREEMENTS

Sec. 110. In addition to the amounts authorized to be appropriated by section 102 of this Act, there are authorized to be appropriated to the Secretary of State $3,700,000 for the fiscal year 1982 [13] and $3,700,000 for the fiscal year 1983 [14] for payment of the United States share of expenses of the science and technology agreements between the United States and Yugoslavia and between the United States and Poland.

ASIA FOUNDATION

Sec. 111. In addition to the amounts authorized to be appropriated by section 102 of this Act, there are authorized to be appropriated to the Secretary of State $4,500,000 for the fiscal year 1982 [15] and $4,500,000 for the fiscal year 1983 [16] for the Asia Foundation in furtherance of that organization's purposes as described in its charter. Amounts appropriated under this section shall be made available to the Asia Foundation by the Secretary of State in accordance with the terms and conditions of a grant agreement to be negotiated between the Secretary and the Foundation.

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PAN AMERICAN INSTITUTE OF GEOGRAPHY AND HISTORY

Sec. 113. Paragraph (1) of the first section of the joint resolution entitled "Joint Resolution to provide for membership of the United States in the Pan American Institute of Geography and History; and to authorize the President to extend an invitation for the next general assembly of the institute to meet in the United States in 1935, and to provide an appropriation for expenses thereof", approved August 2, 1935 (22 U.S.C. 273), is amended by striking out ", not to exceed $200,000 annually,".

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[13] Sec. 101(h) of the Continuing Appropriations, 1982 (Public Law 97-92, 95 Stat. 1183), and H.R. 4169, as passed by the House and made part of Public Law 97-92, appropriated $3,700,000 for United States bilateral science and technology agreements during fiscal year 1982.

[14] Sec. 101(d) of the Further Continuing Appropriations Act, 1983 (Public Law 97-377, 96 Stat. 1830 at 1866), and S. 2956, as reported in the Senate on Sept. 24, 1982 and made part of Public Law 97-377, appropriated $1,700,000 for United States bilateral science and technology agreements with Yugoslavia and Poland during fiscal year 1983.

[15] Sec. 101(h) of the Continuing Appropriations, 1982 (Public Law 97-92, 95 Stat. 1183), and H.R. 4169, as passed by the House and made part of Public Law 97-92, appropriated $3,100,000 for the Asia Foundation during fiscal year 1982.

[16] Sec. 101(d) of the Further Continuing Appropriations Act, 1983 (Public Law 97-377, 96 Stat. 1830 at 1877), and S. 2956, as reported in the Senate on Sept. 24, 1982 and made part of Public Law 97-377, appropriated $4,100,000 for the Asia Foundation during fiscal year 1983.

INTERNATIONAL INSTITUTE FOR THE UNIFICATION OF PRIVATE LAW AND THE HAGUE CONFERENCE ON PRIVATE INTERNATIONAL LAW

Sec. 114. Section 2 of the joint resolution entitled "Joint Resolution to provide for participation by the Government of the United States in the Hague Conference on Private International Law and the International (Rome) Institute for the Unification of Private Law, and authorizing appropriations therefor", approved December 30, 1963 (22 U.S.C. 269g-1), is amended by striking out ", except that" and all that follows through "that year".

PAN AMERICAN RAILWAY CONGRESS

Sec. 115. Section 2(a) of the joint resolution entitled "Joint Resolution providing for participation by the Government of the United States in the Pan American Railway Congress, and authorizing an appropriation therefor", approved June 28, 1948 (22 U.S.C. 280k), is amended by striking out "Not more than $15,000 annually" and inserting in lieu thereof "Such sums as may be necessary".

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PRIVATE SECTOR REPRESENTATIVES ON UNITED STATES DELEGATIONS TO INTERNATIONAL TELECOMMUNICATIONS MEETINGS AND CONFERENCES

Sec. 120. (a) Sections 203, 205, 207, and 208 of title 18, United States Code,[17] shall not apply to a private sector representative on the United States delegation to an international telecommunications meeting or conference who is specifically designated to speak on behalf of or otherwise represent the interests of the United States at such meeting or conference with respect to a particular matter, if the Secretary of State (or the Secretary's designee) certifies that no Government employee on the delegation is as well qualified to represent United States interests with respect to such matter and that such designation serves the national interest. All such representatives shall have on file with the Department of State the financial disclosure report required for special Government employees.

(b) As used in this section, the term "international telecommunications meeting or conference" means the conferences of the International Telecommunications Union, meetings of its International Consultative Committees for Radio and for Telephone and Telegraph, and such other international telecommunications meetings or conferences as the Secretary of State may designate.

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SCIENTIFIC EXCHANGE ACTIVITIES WITH THE SOVIET UNION

Sec. 126. (a) Not later than 90 days after the date of enactment of this Act, the Secretary of State shall submit to the Congress a report with respect to the individual exchange activities conducted pursuant to the 11 agreements for cooperation in specialized fields which were entered into by the United States and the Union of Soviet Socialist Republics between 1972 and 1974. This report shall include—

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[17] These are provisions of the Ethics in Government Act which restrict the movement of individuals between the Government and private sector.

(1) an assessment of the risk of the transfer to the Soviet Union of military significant technology through research, exchanges, and other activities conducted pursuant to those agreements; and

(2) a detailed description on the exchanges and other activities conducted pursuant to those agreements during fiscal year 1981 and fiscal year 1982, including—

(A) the areas of cooperation,

(B) the specific research and projects involved,

(C) the man-hours spent in short-term (less than 60 days) and long-term exchanges,

(D) the level of United States and Soviet funding in each such fiscal year, and

(E) an assessment of the equality or inequality in value of the information exchanged.

(b) The Secretary of State shall prepare the report required by subsection (a) in consultation and cooperation with the heads of the other agencies involved in the exchange and other cooperative activities conducted pursuant to the agreements described in that subsection.

(c) [18] Not later than July 1 of each year, the Secretary of State shall submit to the Congress a list of the Soviet nationals participating during the upcoming academic year in the United States-Union of Soviet Socialist Republics graduate student/young faculty exchange or in the United States-Union of Soviet Socialist Republics senior scholar exchange, their topics of study, and where they are to study. This report shall also include a determination by the Secretary of State, in consultation with the heads of the other agencies involved in these exchange programs, that these exchange programs will not jeopardize United States national security interests.

TITLE II—FOREIGN MISSIONS [19]

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TITLE III—UNITED STATES INFORMATION AGENCY [20]

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TITLE IV—BOARD FOR INTERNATIONAL BROADCASTING [21]

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[18] 22 U.S.C. 2458 note.

[19] Title II, cited as the Foreign Missions Act, amended the State Department Basic Authorities Act of 1956 by adding a new title concerning the regulation of foreign missions.

[20] For text of free-standing provisions contained in this title, see page 638.

[21] For the most part, title IV contained amendments to the Board for International Broadcasting Act of 1973.

TITLE V—MISCELLANEOUS PROVISIONS

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REPORT ON COSTS FOR REFUGEES AND CUBAN AND HAITIAN ENTRANTS

Sec. 502. (a) Not later than 60 days after the date of enactment of this Act, the President shall prepare and transmit to the Congress a full and complete report on the total cost of Federal, State, and local efforts to assist refugees and Cuban and Haitian entrants within the United States or abroad for each of the fiscal years 1981 and 1982. Such report shall include and set forth for each such fiscal year—

(1) the costs of assistance for resettlement of refugees and Cuban and Haitian entrants within the United States or abroad;

(2) the costs of United States contributions to foreign governments, international organizations, or other agencies which are attributable to assistance for refugees and Cuban and Haitian entrants;

(3) the costs of Federal, State, and local efforts other than those described in paragraphs (1) and (2) to assist and provide services for refugees and Cuban and Haitian entrants;

(4) administrative and operating expenses of Federal, State, and local governments that are attributable to programs of assistance or services described in paragraphs (1), (2), and (3); and

(5) administrative and operating expenses incurred by the United States because of the entry of such aliens into the United States.

(b) For purposes of this section—

(1) the term "refugees" is used within the meaning of paragraph (42) of section 101(a) of the Immigration and Nationality Act; and

(2) the term "Cubans and Haitian entrants" means Cuban and Haitians paroled into the United States pursuant to section 212(d)(5) of the Immigration and Nationality Act, during 1980 who have not been given or denied refugee status under that Act.

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INTERNATIONAL CODE OF MARKETING OF BREASTMILK SUBSTITUTES

Sec. 504. The Congress expresses its strong support for the promotion by the United States of sound infant feeding practices, and continues to be concerned with the sole negative vote cast by the United States against the International Code of Marketing of Breastmilk Substitutes. The Congress urges the President, in light of congressional concern and of new indications of international support for general implementation of the Code, to review the United States position on the Code prior to the 25th World Health Assembly meeting. The Congress also urges United States infant formula manufacturers to continue to re-examine their own position regarding the Code.

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e. Department of State Authorization Act, Fiscal Years 1980 and 1981

Partial text of Public Law 96-60 [H.R. 3363], 93 Stat. 395, approved August 15, 1979; as amended by Public Law 96-110 [H.R. 4955], 93 Stat. 843, approved November 13, 1979; Public Law 96-533 [International Security and Development Cooperation Act of 1980, H.R. 6942], 94 Stat. 3131 at 3151, approved December 16, 1980; and by Public Law 97-241 [S. 1193], 96 Stat. 273 at 298, approved August 24, 1982

AN ACT To authorize appropriations for fiscal years 1980 and 1981 for the Department of State, the International Communication Agency, and the Board for International Broadcasting

> NOTE.—Sections amend other State Department and foreign relations legislation and are incorporated elsewhere in this compilation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—DEPARTMENT OF STATE

SHORT TITLE

Sec. 101. This title may be cited as the "Department of State Authorization Act, Fiscal Years 1980 and 1981".

AUTHORIZATIONS OF APPROPRIATIONS

Sec. 102. (a) There are authorized to be appropriated for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States and other purposes authorized by law, the following amounts, subject to the limitation in subsection (b):

(1) For "Administration of Foreign Affairs", $849,423,000 for the fiscal year 1980 and $1,009,815,000 for the fiscal year 1981.[1]

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[1] The Department of State Appropriation Act, 1981 (titie I of H.R. 7584) was adopted by Congress on December 3, 1980, but vetoed by the President on December 13, 1980. Appropriations for the Department of State during fiscal year 1981 were governed by Public Law 96-536, a continuing resolution providing funds for any Federal agency which had not yet received funding through an appropriation act. Under the terms of Public Law 96-536, the Department of State was funded at levels established in H.R. 7584. H.R. 7584 appropriated $996,385,000 for Administration of Foreign Affairs itemized in the following manner: salaries and expenses—$813,000,000; representation allowances—$3,125,000; acquisition, operation, and maintenance of buildings abroad—$118,432,000; acquisition, operation, and maintenance of buildings abroad (special foreign currency program—$8,200,000; emergencies in the Diplomatic and Consular Service—$5,000,000; payment to the American Institute in Taiwan—$6,282,000; payment to the Foreign Service Retirement and Disability Fund—$42,346,000.

(2) For "International Organizations and Conferences", $502,945,000 for the fiscal year 1980 and $525,082,000 for the fiscal year 1981.[2]

(3) For "International Commissions", $26,733,000 for the fiscal year 1980 and $26,081,000 for the fiscal year 1981.[3]

(4) For "Migration and Refugee Assistance", $104,910,000 for the fiscal year 1979 (in addition to amounts otherwise authorized), $456,241,000 for the fiscal year 1980, and $517,209,000 for the fiscal year 1981.[4]

(b) The aggregate amount appropriated under paragraphs (1), (2), and (3) of subsection (a) may not exceed $1,369,401,000 for the fiscal year 1980 and may not exceed $1,547,778,000 for the fiscal year 1981.

(c) Funds appropriated under paragraph (2) of subsection (a) may not be used for payment by the United States, as its contribution toward the assessed budget of the United Nations for any year, of any amount which would cause the total amount paid by the United States as its assessed contribution for that year to exceed the amount assessed as the United States contribution for that year less—

(1) 25 percent of the amount budgeted for that year for the Committee on the Exercise of the Inalienable Rights of the Palestinian People (or any similar successor entity), and

(2) 25 percent of the amount budgeted for that year for the Special Unit on Palestinian Rights (or any similar successor entity).

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[2] The Department of State Appropriation Act, 1981 (title I of H.R. 7584) was adopted by Congress on December 3, 1980, but vetoed by the President on December 13, 1980. Appropriations for the Department of State during fiscal year 1981 were governed by Public Law 96-536, a continuing resolution providing funds for any Federal agency which had not yet received funding through an appropriation act. Under the terms of Public Law 96-536, the Department of State was funded at levels established in H.R. 7584. H.R. 7584 appropriated $538,110,000 for International Organizations and Conferences itemized in the following manner: contributions to international organizations—$481,110,000; contributions for international peacekeeping activities—$50,000,000; international conferences and contingencies—$7,000,000.

[3] The Department of State Appropriation Act, 1981 (title I of H.R. 7584) was adopted by Congress on December 3, 1980, but vetoed by the President on December 13, 1980. Appropriations for the Department of State during fiscal year 1981 were governed by Public Law 96-536, a continuing resolution providing funds for any Federal agency which had not yet received funding through an appropriation act. Under the terms of Public Law 96-536, the Department of State was funded at levels established in H.R. 7584. H.R. 7584 appropriated $24,713,000 for International Commissions itemized in the following manner: International Boundary and Water Commission, United States and Mexico—$13,675,000; American sections, international commissions—$3,000,000; international fisheries commissions—$8,038,000.

[4] Sec. 1 of the Cambodian Disaster Assistance Authorization Act (Public Law 96-110, 93 Stat. 843) substituted authorization figures of $456,241,000 and $457,798,000 in lieu of the original fiscal years 1980 and 1981 authorizations of $248,951,000 and $254,188,000, respectively. The fiscal year 1981 authorization was further increased to $517,209,000 by sec. 406 of the International Security and Development Cooperation Act of 1980 (Public Law 96-533, 94 Stat. 3151).

A foreign assistance appropriation bill was not enacted for fiscal years 1980 or 1981. Since Oct. 1, 1979, programs funded under this appropriation measure operated pursuant to a series of continuing resolutions. The final continuing resolution (H.J. Res. 644, Public Law 96-536) provided (with several exceptions) such amounts as may be necessary for continuing projects or activities "which were conducted in fiscal year 1980 and would be provided for in H.R. 7854, the Foreign Assistance and Related Programs Appropriation Act, 1981, as reported July 29, 1980, at a rate of operations not in excess of the rate which would have been provided under the terms of the conference report (House Report 96-787), and in accordance with associated agreements stated in the Joint Explanatory Statements of the Committee of Conference, accompanying H.R. 4473 * * *" (this conference report was never approved by Congress).

Pursuant to Public Law 96-536, the fiscal year 1981 appropriation for Migration and Refugee Assistance is $456,241,000.

ASSISTANCE FOR REFUGEES SETTLING IN ISRAEL

Sec. 103. Of the amounts authorized to be appropriated by section 102(a)(4) of this Act for the fiscal year 1980 and for the fiscal year 1981, $25,000,000 for each such fiscal year shall be available only for assistance for the resettlement in Israel of refugees from the Union of Soviet Socialist Republics and from Communist countries in Eastern Europe.

UNITED STATES-YUGOSLAVIA BILATERAL SCIENCE AND TECHNOLOGY AGREEMENT

Sec. 104. In addition to the amounts authorized to be appropriated by section 102(a) of this Act, there are authorized to be appropriated to the Secretary of State $1,400,000 for the fiscal year 1980 and $1,400,000 for the fiscal year 1981 [5] for payment of the United States share of expenses of a five-year bilateral science and technology agreement between the United States and Yugoslavia, following entry into force of such agreement.

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EFFECTIVE DATE FOR CERTAIN PROMOTIONS OF FOREIGN SERVICE OFFICERS

Sec. 106. The promotion for each of 64 Foreign Service officers of classes 8 and 7 to the next higher class, as the case may be, for which the Senate gave its advice and consent on March 21, 1979, and which was attested to on March 22, 1979, shall be considered for all purposes to take effect on December 17, 1978. Any payments made in implementation of this section shall be from funds previously authorized and appropriated for the fiscal year 1979.

IMPROVEMENT IN FOREIGN NATIONAL PAY PLANS [6]

Sec. 107. (a) It is the sense of the Congress that the Secretary of State should—

(1) improve coordination between the Department of State and the Department of Defense and other departments and agencies of the United States operating outside the United States with respect to foreign national pay systems and wage schedules to the extent that—

(A) joint wage surveys and compatible pay schedules are adopted in countries where two or more departments or agencies of the United States directly employ foreign nationals, and

(B) Department of Defense wage rates are included in wage surveys of the Department of State where the Department of Defense operates under indirect-hire arrangements;

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[5] The Department of State Appropriation Act, 1981 (title I of H.R. 7584) was adopted by Congress on December 3, 1980, but vetoed by the President on December 3, 1980. Appropriations for the Department of State during fiscal year 1981 were governed by Public Law 96–536, a continuing resolution providing funds for any Federal agency which had not yet received funding through an appropriation act. Under the terms of Public Law 96–536, the Department of State was funded at levels established in H.R. 7584. H.R. 7584 appropriated $1,400,000 for United States-Yugoslavia Bilateral Science and Technology Agreement.

[6] 22 U.S.C. 899 note.

(2) monitor the establishment of wage rates outside the United States more closely to insure that United States missions—

(A) operate under salary schedules that reflect private sector average pay or average pay ranges,

(B) include the cost of severance in making pay adjustments, and

(C) survey jobs in the private sector which represent as closely as possible the work force of the mission; and

(3) substitute, whenever possible, prevailing local retirement plans for civil service retirement with respect to the retirement of foreign nationals employed by the United States.

(b) * * *

UNITED STATES CONSULATES

Sec. 108. (a) The following United States consulates shall not be closed or, if closed on the date of enactment of this Act, shall be reopened as soon as possible after such date: Salzburg, Austria; Bremen, Germany; Nice, France; Turin, Italy; Goteborg, Sweden; Adana, Turkey; Tangier, Morocco; Mandalay, Burma; Brisbane, Australia; and Surabaya, Indonesia.

(b) Personnel assigned to the consulates described in subsection (a) shall not be counted toward any personnel ceiling for the Department of State established by the Director of the Office of Management and Budget.

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UNITED NATIONS TECHNICAL ASSISTANCE PROGRAMS

Sec. 110. Title I of the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1979 (Public Law 95-431, 92 Stat. 1021), is amended in the paragraph under the heading "CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS" by striking out ", of which no part may be made available for the furnishing of technical assistance by the United Nations or any of its specialized agencies".[7]

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[7] Such paragraph in Public Law 95-431 appropriated $327,676,000 for contributions to international organizations but prohibited the use of these funds for technical assistance by the United Nations or any of its specialized agencies. This amendment lifts this prohibition.

TITLE II—INTERNATIONAL COMMUNICATION AGENCY [8]

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TITLE III—BOARD FOR INTERNATIONAL BROADCASTING [8]

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TITLE IV—MISCELLANEOUS PROVISIONS

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CHANGE IN STATUTORY REFERENCE

Sec. 402. Any reference in any provision of law to the Committee on International Relations of the House of Representatives shall be deemed to be a reference to the Committee on Foreign Affairs of the House of Representatives.

EGYPTIAN-ISRAELI CULTURAL, SCIENTIFIC, AND ECONOMIC RELATIONS

Sec. 403. It is the sense of the Congress that it should be the policy of the United States to promote and encourage cultural, scientific, and economic relations between the Arab Republic of Egypt and the State of Israel.

MORATORIUM ON THE COMMERCIAL KILLING OF WHALES

Sec. 405. (a) The Congress finds and declares that—

(1) whales are a unique marine resource of great esthetic and scientific interest to mankind and are a vital part of the marine ecosystem;

(2) the protection and conservation of whales are of particular interest to citizens of the United States;

(3) in 1971 the Congress adopted resolutions requesting the Secretary of State to negotiate a ten-year moratorium on the commercial killing of whales;

(4) the United States, which effectively banned all commercial whaling by United States nationals in December 1971, has sought an international moratorium on the commercial killing of whales since 1972;

(5) the United Nations Conference on the Human Environment adopted a resolution in 1972 calling for a ten-year moratorium on commercial whaling;

(6) the United Nations Governing Council for Environment Programs in 1973 and 1974 confirmed such call for a ten-year moratorium, and the Council continues to support ongoing efforts relating to the whale conservation;

(7) the International Convention for the Regulation of Whaling, signed in 1946, as implemented by the International Whaling Commission, is not providing adequate protection to whales;

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[8] Titles II and III concern material found in section E of this volume, "Information and Educational and Cultural Exchange Programs."

(8) the data-gathering structure established under the International Whaling Commission has not provided all the available data necessary for sound whale conservation;

(9) there is strong evidence that the members of the International Whaling Commission continue to import, in some instances in increasing amounts, whale products from countries not members of the Commission; and

(10) defects in the implementation of the International Convention for the Regulation of Whaling by the International Whaling Commission allow harvests of the declining whale species.

(b) The Congress urges—

(1) the International Whaling Commission to agree to a moratorium on the commercial killing of whales; and

(2) Brazil, Denmark, Iceland, Japan, Norway, the Soviet Union, and the Republic of Korea, as parties to the International Convention for the Regulation of Whaling and which still engage in commercial whaling, and Chile, the People's Republic of China, Peru, Portugal, the Democratic Republic of Korea, Spain, and Taiwan, as countries which are not parties to the Convention and which still engage in commercial whaling, to recognize and comply voluntarily with a moratorium on the commercial killing of whales, as endorsed by the United Nations Conference on the Human Environment and the United Nations Governing Council for Environment Programs.

PRIVATE SECTOR REPRESENTATIVES ON THE UNITED STATES DELEGATION TO THE WORLD ADMINISTRATIVE RADIO CONFERENCE

Sec. 406. The provisions of sections 203, 205, 207, and 208 of title 18, United States Code, shall not apply to a private sector representative on the United States Delegation to the World Administrative Radio Conference to be convened in Geneva on September 24, 1979, who is specifically designated to speak on behalf of or otherwise represent the interest of the United States at such Conference with respect to a particular matter, if the Secretary of State or his designee certifies that no Government employee on the delegation is as well qualified to represent United States interests with respect to such matter and that such designation serves the national interest. All of such representatives shall have on file with the Department of State the financial disclosure report required for special Government employees.

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SANCTIONS AGAINST ZIMBABWE-RHODESIA

Sec. 408.[9] * * * [Repealed—1982]

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[9] Sec. 505(a)(1) of Public Law 97-241 (96 Stat. 298) repealed sec. 408. It formerly read as follows:

"Sec. 408. (a) The Congress finds that—

"(1) it is in the interest of the United States to encourage the development of a multiracial democracy in Zimbabwe-Rhodesia based on both majority rule and minority rights;

"(2) the elections held in April 1979, in which Zimbabwe-Rhodesians approved through elections the transfer of power to a black majority government, constituted a significant step toward multiracial democracy in Zimbabwe-Rhodesia;

"(3) the Government of Zimbabwe-Rhodesia has expressed its willingness to negotiate in good faith at an all-parties conference, held under international auspices, on all relevant issues;

"(4) it is in the foreign policy interest of the United States to further continuing progress toward genuine majority rule in Zimbabwe-Rhodesia and to encourage a peaceful resolution of the conflict; and

"(5) the Government of Great Britain, which retains responsibility for Zimbabwe-Rhodesia under international law, has not yet taken steps to recognize the legality of the new government.

"(b) In view of these considerations, the President shall—

"(1) continue United States efforts to promote a speedy end to the Rhodesian conflict; and

"(2) terminate sanctions against Zimbabwe-Rhodesia by November 15, 1979, unless the President determines it would not be in our national interest to do so and so reports to the Congress. If the President so reports to the Congress, then sanctions shall be terminated if the Congress, within 30 calendar days after receiving the report under paragraph (2), adopts a concurrent resolution stating in substance that it rejects the determination of the President. A concurrent resolution under the preceding sentence shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976 and in the House of Representatives in accordance with the procedures applicable to the consideration of resolutions of disapproval under section 36(b) of the Arms Export Control Act."

Pursuant to the authority contained in subsec. (b) of this section, the President issued Determination No. 80-6 on November 14, 1979, in which he found it to be in the national interest of the United States to continue sanctions against Zimbabwe-Rhodesia.

f. Foreign Relations Authorization Act, Fiscal Year 1979

Partial text of Public Law 95-426 [H.R. 12598], 92 Stat. 963, approved October 7, 1978, as amended by Public Law 95-482 [H.J. Res 1139], 92 Stat. 1603 at 1605, approved October 18, 1978; Public Law 96-60 [H.R. 3363], 93 Stat. 395 at 405, approved August 15, 1979; Public Law 96-465 [Foreign Service Act of 1980, H.R. 6790], 94 Stat. 2071 at 2160, approved October 17, 1980; Public Law 97-241 [S. 1193], 96 Stat. 273 at 299, approved August 24, 1982; Public Law 98-164 [H.R. 2915], 97 Stat. 1017 at 1061, approved November 22, 1983; and by Public Law 100-418 [Omnibus Trade and Competitiveness Act, H.R. 4848], 102 Stat. 1107, approved August 23, 1988

AN ACT To authorize appropriations for fiscal year 1979 for the Department of State, the International Communication Agency, and the Board for International Broadcasting, to make changes in the laws relating to those agencies, to make changes in the Foreign Service personnel system, to establish policies and responsibilities with respect to science, technology, and American diplomacy, and for other purposes

> NOTE.—Sections amend other State Department or foreign relations legislation and are incorporated elsewhere in this compilation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1. This Act may be cited as the "Foreign Relations Authorization Act, Fiscal Year 1979".

TITLE I—DEPARTMENT OF STATE

AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1979

Sec. 101. (a) There are authorized to be appropriated for the Department of State for the fiscal year 1979 to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States, including trade negotiations, and other purposes authorized by law, the following amounts:

(1) For "Administration of Foreign Affairs", $849,118,000.

(2) For "International Organizations and Conferences", $412,826,000.

(3) For "International Commissions", $20,773,000.

(4) For "Migration and Refugee Assistance", $116,536,000.

(5) For increases in salary, pay, retirement, and other employee benefits authorized by law, and for other nondiscretionary costs, such amounts as may be necessary.

(b) Amounts appropriated under this section are authorized to remain available until expended.

(c) Funds authorized to be appropriated for the fiscal year 1979 by paragraphs (1) through (4) of subsection (a) may be appropriated for the fiscal year 1979 for a purpose for which appropriations are authorized by any other of those paragraphs, except that the total amount appropriated for a purpose described in any of those paragraphs may not exceed by more than 10 percent the amount specifically authorized for that purpose by subsection (a).

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UNITED NATIONS CONFERENCE ON SCIENCE AND TECHNOLOGY FOR DEVELOPMENT

Sec. 103. (a) The Congress find that—

(1) science and technology are keys to eradicating hunger and poverty in developing countries;

(2) the ability of the developing countries to achieve self-sustaining growth has been hindered by the lack of an indigenous scientific and technological base;

(3) this scientific and technological base is vital to the emergence of developing countries as full and equal partners in the international system;

(4) expanded cooperation with respect to science and technology and can significantly contribute to an improved North-South relationship; and

(5) the United Nations Conference on Science and Technology for Development offers a valuable forum for the analysis of problems of development that might be alleviated or solved with the aid of scientific and technical expertise.

(b) It is therefore the sense of the Congress that the United States should strongly support the purpose of the United Nations Conference on Science and Technology for Development and that the United States delegation to this conference should actively develop and offer proposals which would facilitate an expansion of mutually beneficial cooperation among developed and developing countries with respect to science and technology, including joint education and research and development programs.

(c) In addition to amounts otherwise available for such purpose, $945,000 of the amount authorized to be appropriated by section 101(a)(1) of this Act shall be available only for expenses incurred by the Department of State in connection with the United Nations Conference on Science and Technology for Development, including expenses for preparatory conferences and seminars held in the United States.

MEMORIAL STATUE OF GENERAL MARSHALL

Sec. 104. (a) The Secretary of State is authorized to acquire on behalf of the United States a memorial statue or bust of General George C. Marshall (hereafter in this section referred to as the "memorial") to be placed in an appropriate location within the Department of State.

(b)(1) To assist the Secretary of State in carrying out the provisions of subsection (a), there is established a Commission to be composed of seven members as follows:

(A) The Secretary, who shall be the chairman of the Commission.

(B) Two members appointed by the Secretary.

(C) Two members appointed by the chairman of the Committee on Foreign Relations of the Senate.

(D) Two members appointed by the chairman of the Committee on International Relations of the House of Representatives.

Members of the Commission shall serve without compensation.

(2) The Commission shall operate under the direction of the Secretary of State and, subject to final approval by the Secretary, shall select the sculptor for the memorial and select its size, style, design, and material.

(3) The Commission shall cease to exist upon completion of its functions under this section, as determined by the Secretary.

(c)(1) Of the funds authorized to be appropriated by section 101(a)(1) of this Act, not more than $10,000 may be used for payment of costs incurred in carrying out subsection (a) of this section.

(2) All other costs incurred in carrying out subsection (a) shall be paid by the Secretary of State with funds contributed to the United States for such purpose.

(d) The Secretary of State shall be responsible for maintenance and care of the memorial.

FOREIGN MISSION SOLAR ENERGY DEMONSTRATION

Sec. 105.[1] (a) It is the purpose of this section to provide for the demonstration of solar energy and other renewable energy technologies in foreign countries through the use of such energy in buildings acquired under subsection (a) of the first section of the Foreign Service Buildings Act, 1926 (22 U.S.C. 292(a)),[2] in order that—

(1) countries in which such buildings are located may be given visible incentives to develop and use local solar energy or other renewable energy resources to reduce dependence upon petroleum and petroleum products;

(2) markets may be developed for American solar energy systems and components in order to stimulate investment in such systems and components and to reduce the costs of such systems and components to reasonable levels;

(3) in furtherance of the purpose of section 119 of the Foreign Assistance Act of 1961 (22 U.S.C. 2151q),[3] cooperation may be developed between the United States and other countries in an effort to develop solar energy or other renewable energy systems within a short period of time; and

(4) equipment which is vital to the operation of sensitive systems within United States missions abroad may be made more reliable and less dependent upon interruptible local energy supplies.

(b)(1) The Secretary of State shall implement projects for the application of solar energy or other forms of renewable energy in buildings acquired under subsection (a) of the first section of the Foreign Service Buildings Act, 1926.

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[1] 22 U.S.C. 292a.

[2] For text, see page 534.

[3] Sec. 119 was repealed in 1980.

(2) The Secretary of State shall select projects under paragraph (1) in consultation with the Secretary of Energy. Such projects shall apply available solar energy and other renewable energy technologies, including those for—

(A) the heating and cooling of buildings;
(B) solar thermal electric systems;
(C) solar photovoltaic conversion systems;
(D) wind energy systems; and
(E) systems for developing fuels from biomass.

The Secretary of Energy shall inform the Secretary of State of all such technologies which are feasible for such projects, taking into account the resources and environmental conditions of the countries in which such projects are to be implemented. Upon the request of the Secretary of State, the Secretary of Energy shall provide to the Secretary of State any technical information or other technical assistance which the Secretary of State considers necessary with respect to any such project. Any project selected under this section should be similar to projects which have been demonstrated by the Department of Energy (or any of its predecessor agencies) to be reliable, maintainable, and technically feasible.

(3) Any project selected under this section shall be adaptable to the local resources, climatic conditions, and economic circumstances of the country in which such project is implemented in order that such country will be more likely to implement similar projects.

(4) The Secretary of State shall insure that any project selected under this section is demonstrated to, and available for inspection by, officials and other citizens of the country in which such project is implemented.

(5) In selecting projects under this section, the Secretary of State shall give the priority to projects to be implemented in developing countries.

(c) Whenever any building is constructed under the authority contained in the first section of the Foreign Service Buildings Act, 1926, the Secretary of State shall insure that the planning for such construction takes into account those renewable energy systems which are available in the country in which the building is to be constructed.

(d) In addition to amounts otherwise available for such purposes, $4,000,000 of the amount authorized to be appropriated by section 101(a)(1) of this Act shall be available only to carry out the purposes of this section.

ASSISTANCE FOR REFUGEES SETTLING IN ISRAEL

Sec. 106. Of the amount authorized to be appropriated by section 101(a)(4) of this Act, $25,000,000 shall be available only for assistance for the resettlement in Israel of refugees from the Union of Soviet Socialist Republics and from Communist countries in Eastern Europe.

ASSISTANCE FOR REFUGEES IN AFRICA

Sec. 107. In addition to amounts otherwise available for such purpose, $5,000,000 of the amount authorized to be appropriated by section 101(a)(4) of this Act shall be available only for assistance for refugees in Africa.

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UNDER SECRETARY OF STATE FOR MANAGEMENT

Sec. 114. (a) * * *

(b)(1) Paragraph (9) of section 5314 of title 5, United States Code, is amended by inserting "and Under Secretary of State for Management" immediately after "Programs".

(2) Paragraph (10) of section 5315 of such title is repealed.

(c) The amendments made by this section shall take effect on October 1, 1978.

ASSISTANT SECRETARY OF STATE FOR INTERNATIONAL NARCOTICS MATTERS

Sec. 115.[4] (a) There is established in the Department of State, in addition to the positions provided under the first section of the Act of May 26, 1949 (22 U.S.C. 2652), an Assistant Secretary of State for International Narcotics Matters, who shall be appointed by the President, by and with the advice and consent of the Senate. The Assistant Secretary shall be responsible for the overall coordination of the role of the Department of State in the international aspects of narcotics problems.

(b)(1) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

> "(122) Assistant Secretary for International Narcotics Matters, Department of State.".

(2) The amendment made by paragraph (1) of this subsection shall take effect on October 1, 1978.

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PUBLICATION OF HISTORICAL DOCUMENTS BY THE DEPARTMENT OF STATE

Sec. 120.[5] (a) The Congress finds that the Department of State publication "Foreign Relations of the United States" plays an important role in making the documentary record of United States foreign relations available to the Congress and the American public.

(b) The Secretary of State shall therefore insure that publication of the "Foreign Relations of the United States" volumes is continued in such a manner as will maintain the high standard of comprehensive documentation already established by past volumes.

ASSISTANCE TO BEREAVED UNITED STATES FAMILIES

Sec. 121.[6] The Congress finds that the Department of State should, in the performance of its consular duties, render all reason-

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[4] 22 U.S.C. 2652a.

[5] 44 U.S.C. 1314 note.

[6] 22 U.S.C. 1175 note. Sec. 505(a) of Public Law 97-241 (96 Stat. 299) repealed subsec. (b) of this section which had required a report from the Secretary of State describing alternative proce-

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able administrative assistance to a United States citizen who is making necessary arrangements following the death of another United States citizen abroad.

SYSTEMATIC INFORMATION-SHARING

Sec. 122.[7] The Congress finds that—

(1) international political, economic, and other studies prepared systematically by analysts of the Department of State as needed background information for executive branch policymakers could be similarly valuable to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate in fulfilling their responsibilities; and

(2) a formal information-sharing arrangement between the Department of State and such congressional committees could therefore serve the national interest, provided that controls on dissemination are established which insure that neither the process of analysis nor necessary confidentiality is jeopardized.

ASSISTING MINORITY ENTERPRISE

Sec. 123. (a) The Congress finds that the Inter-Agency Council for Minority Enterprise has been created to assist minority owned and operated businesses in establishing broader markets, including markets with respect to procurement by the United States Government.

(b) It is the sense of the Congress that the Secretary of State, in cooperation with such Council, should—

(1) broaden minority business participation in the provision of goods and services for the Department of State; and

(2) establish and expand export markets for minority businesses.

LIMITATION ON GEOGRAPHICAL TRAVEL RESTRICTIONS IN UNITED STATES PASSPORTS

Sec. 124. For the purpose of achieving greater United States compliance with the provisions of the Final Act of the Conference on Security and Cooperation in Europe (signed at Helsinki on August 1, 1975) and for the purpose of encouraging other countries which are signatories to the Final Act to comply with those provisions, the first section of the Act entitled "An Act to regulate the issue and validity of passports, and for other purposes", approved July 3, 1926 (22 U.S.C. 211a),[8] is amended by adding at the end thereof the following: "Unless authorized by law, a passport may not be designated as restricted for travel to or for use in any country other than a country with which the United States is at war, where

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dures by which the Department of State could provide loans or other forms of assistance to a U.S. citizen to facilitate arrangements following the death of another U.S. citizen abroad. The Secretary submitted this report on Jan. 19, 1979.

[7] 22 U.S.C. 2280 note. Sec. 505(a) of Public Law 97-241 (96 Stat. 299) repealed subsec. (b) of this section which had required a report from the Secretary of State containing recommendations for the establishment of an information-sharing arrangement between the State Department and congressional committees. The Secretary submitted this report on Jan. 19, 1979.

[8] For text, see page 526.

armed hostilities are in progress, or where there is imminent danger to the public health or the physical safety of United States travellers.".

DIPLOMATIC AND OFFICIAL PASSPORTS

Sec. 125.[9] It is the sense of the Congress that a diplomatic or official United States passport should be issued only to, and used only by, a person who holds a diplomatic or other official position in the United States Government or who is otherwise eligible for such a passport under conditions specifically authorized by law.

TRAVEL RESTRICTIONS ON FOREIGN CITIZENS

Sec. 126.[10] (a) For the purpose of implementing general principles of the Final Act of the Conference on Security and Cooperation in Europe (signed at Helsinki on August 1, 1975) emphasizing the lowering of international barriers to the free movement of people and ideas and in accordance with provisions of the Vienna Convention on Diplomatic Relations establishing the legal principles of nondiscrimination and reciprocity, it shall be the general policy of the United States to impose restrictions on travel within the United States by citizens of another country only when the government of that country imposes restrictions on travel by the United States citizens within that country.

(b) The Secretary of State shall—

(1) insure that this policy is clearly conveyed to any foreign government imposing travel restrictions on United States citizens; and

(2) seek to elimination, on a mutual and reciprocal basis, of travel restrictions imposed by such government and by the Government of the United States on each other's citizens.

(c)[11] * * * [Repealed—1983]

(d) Subsection (a) may not be construed as limiting any restrictions on travel within the United States which are imposed by the United States Government, on a reciprocal basis, with respect to the officials of particular foreign governments.

TITLE II—INTERNATIONAL COMMUNICATION AGENCY

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TITLE IV—FOREIGN SERVICE AND OTHER PERSONNEL

EMPLOYMENT OF FAMILY MEMBERS OVERSEAS

Sec. 401.[12] * * * [Repealed—1981]

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[9] 22 U.S.C. 211a note.

[10] 22 U.S.C. 2691 note.

[11] Sec. 1011(a)(1) of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98-164, 97 Stat. 1061) repealed subsec. (c) which had required a report to Congress by the Secretary of State annually for 1979-1981 concerning domestic travel restrictions imposed by the U.S. Government, on a reciprocal basis, with respect to similar restrictions imposed by foreign governments on United States citizens.

[12] Sec. 2205(2) of the Foreign Service Act of 1980 (Public Law 96-465, 94 Stat. 2160), repealed Sec. 401.

ORIENTATION AND LANGUAGE TRAINING FOR FAMILY MEMBERS

Sec. 405. (a) [13] * * *
(b) [13] * * * [Repealed—1983]

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Sec. 406.[14] * * * [Repealed—1978]

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COMPENSATORY TIME OFF AT CERTAIN POSTS IN FOREIGN AREAS

Sec. 411. (a) Subchapter III of chapter 59 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 5926. Compensatory time off at certain posts in foreign areas

"(a) Under regulations prescribed pursuant to this subchapter, and notwithstanding subchapter V of chapter 55 of this title or any other law, the head of an agency may, on request of an employee serving in a foreign area—

"(1) at an isolated post performing functions required to be maintained on a substantially continuous basis, grant the employee compensatory time off for an equal amount of time spent in regularly scheduled overtime work; or

"(2) at a post in a locality that customarily observes irregular hours of work or where other special conditions are present, in order to cope with those special circumstances, grant the employee compensatory time off for an equal amount of time spent in regularly scheduled overtime work for use during the pay period in which it is earned.

Credit for compensatory time off earned under paragraph (2) shall not form the basis for any additional compensation.

"(b) Compensatory time earned under this section shall be for use only while the employee is assigned to the post where it is earned. Any such compensatory time not used at the time the employee is reassigned to another post shall be forfeited.".

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[13] Sec. 405(a) amended the Foreign Service Act of 1946 by adding a new sec. 708. (Foreign Service Act of 1946 was replaced by the Foreign Service Act of 1980.) Sec. 1101(a)(2) of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98-164, 97 Stat. 1061) repealed sec. 405(b) which had required a report to Congress from the Secretary of State regarding orientation and language training programs for family members of U.S. Government employees.

[14] Sec. 109 of the Continuing Appropriations, fiscal year 1979 (Public Law 95-482, 92 Stat. 1604), repealed sec. 406. It formerly read as follows:

"SPECIAL COMPUTATION OF ANNUITIES

"Sec. 406. Notwithstanding the first sentence of section 821(a) of the Foreign Service Act of 1946 (22 U.S.C. 1076(a)), the annuity of any participant in the Foreign Service Retirement and Disability System whose salary was or is limited by the provisions of section 5308 of title 5, United States Code, and who retires during the period beginning October 1, 1978, and ending December 31, 1979, shall be equal to 2 per centum of his or her basic salary for the highest year of service for which contributions have been made to the Foreign Service Retirement and Disability Fund multiplied by the number of years, not exceeding thirty-five, of service credit obtained in accordance with the provisions of sections 851 and 853 of the Foreign Service Act of 1946 (22 U.S.C. 1091 and 1093)."

(b) The section analysis for such chapter is amended by inserting the following new item immediately after the item relating to section 5925:

"5926. Compensatory time off at certain posts in foreign areas.".

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REVIEW OF FOREIGN SERVICE PERSONNEL REQUIREMENTS AND COMPENSATION

Sec. 413.[15] * * * [Repealed—1981]

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TITLE V—SCIENCE, TECHNOLOGY, AND AMERICAN DIPLOMACY [16]

FINDINGS

Sec. 501. The Congress finds that—

(1) the consequences of modern scientific and technological advances are of such major significance in United States foreign policy that understanding and appropriate knowledge of modern science and technology by officers and employees of the United States Government are essential in the conduct of modern diplomacy;

(2) many problems and opportunities for development in modern diplomacy lie in scientific and technological fields;

(3) in the formulation, implementation, and evaluation of the technological aspects of United States foreign policy, the United States Government should seek out and consult with both public and private industrial, academic, and research institutions concerned with modern technology; and

(4) the effective use of science and technology in international relations for the mutual benefit of all countries requires the development and use of the skills and methods of long-range planning.

DECLARATION OF POLICY

Sec. 502. In order to maximize the benefits and to minimize the adverse consequences of science and technology in the conduct of foreign policy, the Congress declares the following to be the policy of the United States:

(1) Technological opportunities, impacts, changes, and threats should be anticipated and assessed, and appropriate measures should be implemented to influence such technological developments in ways beneficial to the United States and other countries.

(2) The mutually beneficial applications of technology in bilateral and multilateral agreements and activities involving the United States and foreign countries or international orga-

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[15] Sec. 2205(2) of the Foreign Service Act of 1980 (Public Law 96–465, 94 Stat. 2160) repealed sec. 413.

[16] 22 U.S.C. 2656a–2656d.

nizations should be recognized and supported as an important element of United States foreign policy.

(3) The United States Government should implement appropriate measures to insure that individuals are trained in the use of science and technology as an instrument in international relations and that officers and employees of the United States Government engaged in formal and informal exchanges of scientific and technical information, personnel, and hardware are knowledgeable in international affairs.

(4) In recognition of the environmental and technological factors that change relations among countries and in recognition of the growing interdependence between the domestic and foreign policies and programs of the United States, United States foreign policy should be continually reviewed by the executive and legislative branches of the Government to insure appropriate and timely application of science and technology to the conduct of United States foreign policy.

(5) [17] Federally supported international science and technology agreements should be negotiated to ensure that—

(A) intellectual property rights are properly protected; and

(B) access to research and development opportunities and facilities and the flow of scientific and technological information, are, to the maximum extent practicable, equitable and reciprocal.

RESPONSIBILITIES OF THE PRESIDENT

Sec. 503. (a) The President, in consultation with the Director of the Office of Science and Technology Policy and other officials whom the President considers appropriate, shall—

(1) notwithstanding any other provision of law, insure that the Secretary of State is informed and consulted before any agency of the United States Government takes any major action, primarily involving science or technology, with respect to any foreign government or international organization;

(2) identify and evaluate elements of major domestic science and technology programs and activities of the United States Government with significant international implications;

(3) identify and evaluate international scientific or technological developments with significant implications for domestic programs and activities of the United States Government; and

(4) assess and initiate appropriate international scientific and technological activities which are based upon domestic scientific and technological activities of the United States Government and which are beneficial to the United States and foreign countries.

(b) The President shall study and not later than January 31, 1980, and not later than January 31 of each year thereafter, shall transmit to the Speaker of the House of the House of Representatives and the Committees on Foreign Relations and Governmental

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[17] Sec. 5171(a) of Public Law 100-418 (102 Stat. 1452) added paragraph (5).

Affairs of the Senate [18] a report containing information and [18] recommendations with respect to—

(1) personnel requirements, and standards and training for service of officers and employees of the United States Government, with respect to assignments in any Federal agency which involve foreign relations and science or technology;

(2) the continuation of existing bilateral and multilateral activities and agreements primarily involving science and technology, including (A) an analysis of the foreign policy implications and the scientific and technological benefits of such activities or agreements for the United States and other parties, (B) the adequacy of the funding for and administration of such activities and agreements, and (C) plans for future evaluation of such activities and agreements on a routine basis; and

(3) [18] equity of access by United States public and private entities to public (and publicly supported private) research and development opportunities and facilities in each country which is a major trading partner of the United States.

(c) Except as otherwise provided by law, nothing in this section shall be construed as requiring the public disclosure of sensitive information relating to intelligence sources or methods or to persons engaged in monitoring scientific or technological developments for intelligence purposes.

(d) [19] (1) The information and recommendations developed under subsection (b)(3) shall be made available to the United States Trade Representative for use in his consultations with Federal agencies pursuant to Executive orders pertaining to the transfer of science and technology.

(2) In providing such information and recommendations, the President shall utilize information developed by any Federal departments, agencies, or interagency committees, as he may consider necessary.

RESPONSIBILITY OF THE SECRETARY OF STATE

Sec. 504. (a)(1) [20] In order to implement the policies [20] set forth in section 502 of this title, the Secretary of State (hereafter in this section referred to as the "Secretary") shall have primary responsibility for coordination and oversight with respect to all major science or science and technology agreements and activities between the United States and foreign countries, international organizations, or commissions of which the United States and one or more foreign countries are members.

(2) [20] In coordinating and overseeing such agreements and activities, the Secretary shall consider (A) scientific merit; (B) equity of access as described in section 503(b); (C) possible commercial or trade linkages with the United States which may flow from the

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[18] Sec. 5171(b) of Public Law 100-418 (102 Stat. 1453) struck out "Congress" and inserted in lieu thereof reference to the Speaker of the House and Committees; inserted "information and"; and added a new paragraph (3).

[19] Sec. 5171(c) of Public Law 100-418 (102 Stat. 1453) added a new subsec. (d).

[20] Sec. 5171(d) of Public Law 100-418 (102 Stat. 1453) redesignated subsec. (a) as (a)(1); struck out "policy" and inserted "policies"; and added paragraphs (2) and (3).

agreement or activity; (D) national security concerns; and (E) any other factors deemed appropriate.

(3)[20] Prior to entering into negotiations on such an agreement or activity, the Secretary shall provide Federal agencies which have primary responsibility for, or substantial interest in, the subject matter of the agreement or activity, including those agencies responsible for—

(A) Federal technology management policies set forth by Public Law 96-517 and the Stevenson-Wydler Technology Innovation Act of 1980;

(B) national security policies;

(C) United States trade policies; and

(D) relevant Executive orders,

with an opportunity to review the proposed agreement or activity to ensure its consistency with such policies and Executive orders, and to ensure effective interagency coordination.

(b) The Secretary shall, to such extent or in such amounts as are provided in appropriation Acts, enter into long-term contracts, including contracts for the services of consultants, and shall make grants and take other appropriate measures in order to obtain studies, analyses, and recommendations from knowledgeable persons and organizations with respect to the application of science or technology to problems of foreign policy.

(c) The Secretary shall, to such extent or in such amounts as are provided in appropriation Acts, enter into short-term and long-term contracts, including contracts for the services of consultants, and shall make grants and take other appropriate measures in order to obtain assistance from knowledgeable persons and organizations in training officers and employees of the United States Government, at all levels of the Foreign Service and Civil Service—

(1) in the application of science and technology to problems of United States foreign policy and international relations generally; and

(2) in the skills of long-range planning and analysis with respect to the scientific and technological aspects of United States foreign policy.

(d) In obtaining assistance pursuant to subsection (c) in training personnel who are officers or employees of the Department of State, the Secretary may provide for detached service for graduate study at accredited colleges and universities.

(e)[21] * * * [Repealed—1982]

TITLE VI—POLICY PROVISIONS

INTERNATIONAL COMMUNICATIONS POLICY

Sec. 601.[22] The Congress finds that—

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[21] Subsec. (e), which had required a report from the Secretary of State concerning the coordination and oversight of all major science or science and technology agreements and activities between the United States and foreign countries, international organizations, or commissions, was repealed by sec. 505(a)(2) of Public Law 97-241 (96 Stat. 299). The Secretary submitted this report on January 19, 1979, and filed a supplemental report on October 26, 1979.

[22] Sec. 505(a) of Public Law 97-241 (96 Stat. 299) repealed subsec. (b) of this section which had required a report from the President describing procedures established by which to develop and

Continued

(1) a series of multilateral meetings scheduled to convene in 1978 and 1979 (including the twentieth General Conference of the United Nations Educational, Scientific, and Cultural Organization; the Thirty-second United Nations General Assembly; the United Nations Conference on Science and Technology for Development; and the World Administrative Radio Conference of the International Telecommunications Union) will address a complex variety of international communications and information issues and will likely, through the promulgation of binding agreements relating to such issues, have a significant and lasting effect on the free flow of information and ideas among the countries of the world; and

(2) since the United States is the leading user of communications channels and information in the world, the United States Government should have a comprehensive policy regarding the various communications and information issues that have entered international discussions and should establish an effective mechanism by which to develop and coordinate United States policy on such issues.

ACTION CONCERNING RESOURCES

Sec. 602.[23] It is the sense of the Congress that the President should convey to all countries having an interest in cetacean sea life the serious concern of the Congress regarding the continuing destruction of these marine mammals (highlighted by the recent slaughter of dolphins in the Sea of Japan by Japanese fishermen) and should encourage such countries—

(1) to join in international discussions with other such countries in order to advance general understanding of cetacean life and thereby facilitate an effective use of the living marine resources of the world which does not jeopardize the natural balance of the aquatic environment;

(2) to participate in an exchange of information with the National Marine Fisheries Service of the United States Department of Commerce, including cooperation in studies of—

(A) the impact of cetaceans on ecologically related human foodstuffs, and

(B) alternative methods of dealing with cetacean problems as they occur;

(3) to cooperate in establishing an international cetacean commission to advance understanding of cetacean life and to insure the effective conservation and protection of cetaceans on a global scale; and

(4) to adopt comprehensive marine mammal protection legislation.

INTERNATIONAL JOURNALISTIC FREEDOM

Sec. 603.[24] (a) The Congress finds that—

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maintain a comprehensive U.S. policy regarding international communication and information issues and discussing U.S. goals and positions concerning anticipated international meetings addressing such issues. The President submitted this report on Feb. 8, 1979.

[23] 22 U.S.C. 1361 note.

[24] 22 U.S.C. 2656 note.

(1) news dissemination and the free flow of information across national boundaries are vital to international understanding and to healthy relations among countries; and

(2) recurring and reliable reports strongly indicate that in many countries foreign news correspondents are subject to governmental harassment and restriction, including the denial of access to legitimate news sources, the imposition of censorship, and detention, incarceration, and expulsion.

(b) It is therefore the sense of the Congress that the President should—

(1) advise the appropriate officials of any foreign government which subjects foreign news correspondents to harassment and restrictions that the United States considers such mistreatment a significant and potentially damaging factor in overall relations of the United States with such country; and

(2) raise in appropriate international forums the issue of the treatment of foreign news correspondents, with a view toward gaining multilateral support for the legitimate rights of such correspondents.

(c)[25] * * * [Repealed—1982]

INTERNATIONAL FOOD RESERVE

Sec. 604.[26] (a) The Congress finds that—

(1) half a billion people suffer regularly from malnutrition or undernutrition;

(2) even very modest shortfalls in crop production can result in greatly increased human suffering, and undercut the benefits of bilateral and multilateral assistance programs, in poor developing countries with chronic food deficits;

(3) increasing variability in world food production and trade presents a serious threat not only to consumers but also to producers;

(4) the World Food Conference recognized the urgent need for an international undertaking to achieve a system of world food security based largely upon strategic food reserves;

(5) the Congress through legislation has repeatedly urged the President to negotiate with other nations to establish such a system of reserves;

(6) although the nations of the world have agreed to begin discussions on a system of grain reserves to regulate food availability, agreement on a global network of nationally held reserves still eludes the international community;

(7) while some progress has taken place in the United States in creating domestic farmer held reserves, the scale of such reserves does not insure adequate protection against fluctuations in world production and price; and

(8) the United States, as the world's leading producer of foodstuffs, remains in a unique position to provide the leadership necessary to make world food security a reality.

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[25] Subsec. (c), which had required a report from the President describing actions taken pursuant to subsec. (b), was repealed by sec. 505(a)(2) of Public Law 97-241 (96 Stat. 299). The President submitted this report on Feb. 8, 1979.

[26] 22 U.S.C. 2220 note.

(b) It is therefore the sense of the Congress that the President should continue his efforts directed toward achievement of an agreement establishing an international network of nationally held grain reserves which provides for supply assurance to consumers and income security to producers.

SPANISH DEMOCRACY

Sec. 605. (a) The Congress finds that—

(1) the Senate, in rendering its advice and consent to ratification of the Treaty of Friendship and Cooperation between the United States and Spain (signed on January 24, 1976), declared its hope and intent that the Treaty would serve to support and foster Spain's progress toward free institutions;

(2) this declaration reflected the strong desire of the United States Government and the American people to see a restoration of democracy in Spain and an expansion of mutually beneficial relations between Spain and the democracies of America and Europe; and

(3) political developments in Spain during the past two years constitute a major step toward the construction of a stable and lasting Spanish democracy.

(b) The Congress finds further that—

(1) the masterpiece "Guernica", painted by Pablo Picasso, has for four decades been a powerful and poignant symbol of the horror of war;

(2) this treasured painting, while universal in its significance, holds special meaning for the people of Spain by its representation of the tragic civil war which destroyed Spanish democracy;

(3) Pablo Picasso, having painted "Guernica" for the Spanish Republican Government and concerned for Spain's future when that government fell, stipulated that the painting should remain in the custody of the Museum of Modern Art in New York until Spanish democracy had been restored; and

(4) the United States and Spain, in a Supplementary Agreement entered into with the Treaty of Friendship and Cooperation, have committed themselves to expand their cooperation in the fields of education and culture.

(c) It is therefore the sense of the Congress, anticipating the continuance of recent promising developments in Spanish political life, that "Guernica" should, at some point in the near future and through appropriate legal procedures, be transferred to the people and Government of a democratic Spain.

(d) It is further the sense of the Congress that the American people, having long benefited from this treasure and admiring Spain's achievement, would wish, as an expression of appreciation and congratulation upon the transfer of "Guernica" to Spain, to assist in the preparation of facilities for the permanent display of the painting, if such assistance is found to be appropriate by the elected leaders of Spain.

DISCRIMINATORY TRADE PRACTICES AFFECTING UNITED STATES FOREIGN RELATIONS

Sec. 606.[27] (a) The Congress finds that those provisions of United States statutes which authorize or require suspension of or discrimination with respect to all trade between the United States and a particular foreign country and which affect, directly and significantly, the conduct of the United States foreign relations should be periodically reevaluated by the President and the Congress.

(b) Therefore, not later than January 20, 1979, the President shall transmit to the Speaker of the House of Representatives, and to the chairman of the Committee on Foreign Relations and the chairman of other appropriate committees of the Senate, a report which—

(1) identifies all statutory provisions which provide for such discriminatory trade practices;

(2) evaluates each such practice; and

(3) recommends, in the form of draft legislation, such amendments to those provisions as the President certifies would in his judgment advance United States foreign policy interests.

CONDUCT OF DIPLOMATIC RELATIONS

Sec. 607.[28] The Congress finds that the conduct of diplomatic relations with a foreign government has as its principal purpose the discussion and negotiation with that government of outstanding issues and, like the recognition of a foreign government, does not in itself imply approval of that government or of the political-economic system it represents.

NUCLEAR-POWERED SATELLITES

Sec. 608.[29] (a) The Congress finds that—

(1) no international regime governs the use of nuclear-powered satellites in space;

(2) the unregulated use of such technology poses the possibility of catastrophic damage to human life and the global environment; and

(3) this danger has been evidenced by mishaps encountered, despite certain precautions, by nuclear-powered satellites of both the United States and the Soviet Union.

(b) It is therefore the sense of the Congress that the United States should take the initiative immediately in seeking a multilateral agreement governing the use of nuclear-powered satellites in space.

(c) [30] * * * [Repealed—1982]

WORLD ALTERNATE ENERGY CONFERENCE

Sec. 609. (a) The Congress finds that—

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[27] 22 U.S.C. 2842 note.

[28] 22 U.S.C. 2656 note.

[29] 22 U.S.C. 2656d.

[30] Subsec. (c), which had required a report from the Secretary of State on actions taken by the U.S. Government pursuant to subsec. (b), was repealed by sec. 505(a)(2) of Public Law 97-241 (96 Stat. 299). The Secretary submitted this report on Jan. 19, 1979.

(1) increasing global dependence on fossil fuels, particularly oil and natural gas, when existing supplies are rapidly being depleted, is costly to developed and developing countries both environmentally and economically;

(2) the uncontrolled spread of nuclear power carries serious dangers due to waste pollution and the possibility of accidents or material diversion;

(3) expanded development and use of alternate, nonconventional, or renewable sources of energy (including solar energy, wind, biomass waste materials, and alcohol fuels) could assist all countries in satisfying rising energy demands, while reducing environmental and economic risk;

(4) no international agency exists at present which assists countries in exchanging information and technical assistance concerning energy-related problems or which promotes the development and use of alternate energy sources; and

(5) an international agency performing these functions could be of benefit to all countries and could be particularly effective in assisting developing countries to become more self-sufficient and thereby to increase their standard of living.

(b) It is therefore the sense of the Congress that the United States should encourage the United Nations to convene a World Alternate Energy Conference in 1981 for the purpose of considering ways to meet the energy needs of the world through the development and use of alternate energy sources. Among proposals considered at such a conference should be the establishment, under United Nations auspices, of an international Alternate Energy Commission to encourage the worldwide use of alternate energy sources by assisting in the dissemination of information and by other appropriate means.

(c) [31] * * * [Repealed—1982]

ATROCITIES IN CAMBODIA AND UGANDA

Sec. 610.[32] (a) The Congress finds that reliable reports of events in Cambodia and Uganda attest to the existence of governmental practices in those countries of such systematic and extensive brutality as to require special notice and continuing condemnation by outside observers.

(b) Recognizing the limited direct influence of the United States in Cambodia and Uganda, the Congress urges the President to move aggressively to support multilateral action by the United Nations and other international organizations, and to encourage bilateral action by countries having more extensive relations with Cambodia and Uganda, to bring an end to the brutal and inhumane practices of the governments of those two countries.

(c) [33] * * * [Repealed—1982]

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[31] Subsec. (c), which had required a report from the Secretary of State on actions taken pursuant to subsec. (b), was repealed by sec. 505(a)(2) of Public Law 97-241 (96 Stat. 299). The Secretary submitted this report on Jan. 19, 1979.

[32] 22 U.S.C. 2151 note.

[33] Subsec. (c), which had required a report from the Secretary of State concerning actions taken pursuant to subsec. (b), was repealed by sec. 505(a)(2) of Public Law 97-241 (96 Stat. 299). The Secretary submitted this report on January 19, 1979.

(d) It is the sense of the Congress that the President should—

(1) prohibit the export of military, paramilitary, and police equipment to Uganda;

(2) direct that the visa application of any official or employee of the Government of Uganda seeking to enter the United States for the purpose of military, paramilitary, or police training, may be approved by a consular officer only after the appropriate official of the Department of State in Washington has reviewed the application and has determined that the Government of Uganda has demonstrated a proper respect for the rule of law and for internationally recognized human rights; and

(3) instruct the Permanent Representative of the United States to the United Nations to submit to the Security Council of the United Nations for its consideration a resolution imposing a mandatory arms embargo on Uganda by all members of the United Nations.

EQUITABLE TREATMENT OF UNITED STATES CITIZENS LIVING ABROAD

Sec. 611.[34] The Congress finds that—

(1) United States citizens living abroad should be provided fair and equitable treatment by the United States Government with regard to taxation, citizenship of progeny, veterans' benefits, voting rights, Social Security benefits, and other obligations, rights, and benefits; and

(2) [35] United States statutes and regulations should be designed so as not to create competitive disadvantage for individual American citizens living abroad or working in international markets.

UNITED STATES-CANADIAN NEGOTIATIONS ON AIR QUALITY

Sec. 612.[36] (a) The Congress finds that—

(1) the United States and Canada share a common environment along a 5,500 mile border;

(2) the United States and Canada are both becoming increasingly concerned about the effects of pollution, particularly that resulting from power generation facilities, since the facilities of each country affect the environment of the other;

(3) the United States and Canada have subscribed to international conventions; have joined in the environmental work of the United Nations, the Organization for Economic Cooperation and Development, and other international environmental

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[34] 22 U.S.C. 1731 note. Sec. 505(a) of Public Law 97-241 (96 Stat. 299) repealed subsec. (b) of this section. Subsec. (b), as amended by sec. 407(b) of Public Law 96-60, had required a report from the President identifying all U.S. statutes and regulations which treat U.S. citizens living abroad differently from U.S. citizens living in the United States or which may cause competitive disadvantage for Americans working abroad relative to the treatment by other major trading nations of the world of their citizens who are working abroad. The report also required an evaluation of such practices and draft legislation to correct any unfair or competitively disadvantageous treatment. The President submitted reports pursuant to this requirement on August 27, 1979, and January 24, 1980.

[35] Paragraph (2) was amended and restated by sec. 407(a) of Public Law 96-60 (93 Stat. 405). It formerly read as follows: "(2) such fair and equitable treatment would be facilitated by a periodic review of statutes and regulations affecting Americans living abroad."

[36] 42 U.S.C. 7415 note.

forums; and have entered into and implemented effectively the provisions of the historic Boundary Waters Treaty of 1909; and

(4) the United States and Canada have a tradition of cooperative resolution of issues of mutual concern which is nowhere more evident than in the environmental area.

(b) It is the sense of the Congress that the President should make every effort to negotiate a cooperative agreement with the Government of Canada aimed at preserving the mutual airshed of the United States and Canada so as to protect and enhance air resources and insure the attainment and maintenance of air quality protective of public health and welfare.

(c) It is further the sense of the Congress that the President, through the Secretary of State working in concert with interested Federal agencies and the affected States, should take whatever diplomatic actions appear necessary to reduce or eliminate any undesirable impact upon the United States and Canada resulting from air pollution from any source.

CUBAN PRESENCE IN AFRICA

Sec. 613.[37] The Congress finds that—

(1) the President authorized the exchange of notes of May 30, 1977, between the Governments of the United States and Cuba which established an Interests Section for the United States in the Embassy of Switzerland in Havana and an Interests Section for Cuba in the Embassy of Czechoslovakia in Washington;

(2) the President has the authority under the Export Administration Act of 1969 to limit trade with Cuba being conducted by subsidiaries of American firms operating in third countries;

(3) the President has the power to sever all diplomatic and economic relations with Cuba; and

(4) there has been a sharp increase in the number of Cuban military personnel serving in Africa in the past year.

PALESTINIAN RIGHTS UNITS

Sec. 614. (a) The Congress, noting United Nations General Assembly Resolution 3376 (XXX) which established the Committee on the Exercise of the Inalienable Rights of the Palestinian People and noting United Nations General Assembly Resolutions 32/40/A and 32/40/B which continued the mandate of that Committee and requested that the Secretary General establish within the Secretariat of the United Nations a Special Unit on Palestinian Rights, declares that—

(1) the continuation of the Committee on the Exercise of the Inalienable Rights of the Palestinian People and the creation of the Special Unit on Palestinian Rights are wasteful expenditures of limited United Nations resources at a time when the United Nations is experiencing severe financial difficulties and when the United Nations is under close scrutiny from contributing members;

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[37] 22 U.S.C. 2370 note. Sec. 505(a) of Public Law 97-241 (96 Stat. 299) repealed subsec. (b) of this section which had required a report from the President reviewing U.S. diplomatic and economic relations with Cuba. The President submitted this report on February 8, 1979.

(2) the work of the Committee on the Exercise of the Inalienable Rights of the Palestinian People does not contribute to the process of peacemaking underway at present in the Middle East; and

(3) the United States Ambassador to the United Nations should be instructed to continue to oppose extensions of the mandate of that Committee as well as extensions of the Special Unit on Palestinian Rights.

(b) It is the sense of the Congress that the President should direct the Permanent Representative of the United States to the United Nations to use all means at his disposal to obtain action by the General Assembly terminating the Committee on the Exercise of the Inalienable Rights of the Palestinian People and the Special Unit on Palestinian Rights.

TITLE VII—MISCELLANEOUS PROVISIONS

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CONTRIBUTION TO THE INTERNATIONAL TIN COUNCIL

Sec. 704. Effective October 1, 1978, there is authorized to be appropriated to the President $60,000,000 for the purpose of acquiring tin metal to contribute to the buffer stock of the International Tin Council established under the Fifth International Tin Agreement.

PROHIBITION ON AID OR REPARATIONS TO VIETNAM

Sec. 705.[38] The President shall continue to take all possible steps to obtain a final accounting of all Americans missing in action in Vietnam.

USE OF FOREIGN AIR CARRIERS

Sec. 706. Notwithstanding the limitations established by section 1117 of the Federal Aviation Act of 1958 (49 U.S.C. 1517), funds appropriated after the date of enactment of this Act to the Department of State, the International Communications Agency, the Agency for International Development (or any successor agency),[39] and the Arms Control and Disarmament Agency may be used to pay for the transportation, between two places both of which are outside the United States, of officers and employees of those agencies, their dependents, and accompanying baggage, aboard air carriers which do not hold certificates under section 401 of that Act.

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[38] Subsec. (a), which had prohibited the use of any funds authorized to be appropriated by this Act for reparations, aid, or any other form of payment to Vietnam, was repealed by sec. 505(a)(2) of Public Law 97-241 (96 Stat. 299).

[39] This responsibility of AID was transferred to the Director of IDCA, pursuant to sec. 6 of Reorganization Plan No. 2 of 1979 (establishing IDCA).

PANAMA CANAL TREATIES

Sec. 709.[40] * * * [Repealed—1982]

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COMMISSION ON HUNGER AND MALNUTRITION

Sec. 711.[41] * * * [Repealed—1982]

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[40] Sec. 709, which had prohibited the use of any funds authorized to be appropriated by this Act, directly or indirectly, to effect the implementation of the Panama Canal treaties without authorization by the Constitution or by Act of Congress, was repealed by sec. 505(a)(2) of Public Law 97-241 (96 Stat. 299).

[41] Sec. 711, which had authorized $1.5 million in each of the fiscal years 1979 and 1980 for a commission on global hunger and malnutrition, was repealed by sec. 505(a)(2) of Public Law 97-241 (96 Stat. 299).

g. Foreign Relations Authorization Act, Fiscal Year 1978

Partial text of Public Law 95-105 [H.R. 6689], 91 Stat. 844, approved August 17, 1977; as amended by Public Law 95-426 [Foreign Relations Authorization Act, Fiscal Year 1979, H.R. 12598], 92 Stat. 963, approved October 7, 1978; Public Law 96-465 [Foreign Service Act of 1980, H.R. 6790], 94 Stat. 2071 at 2160, approved October 17, 1980; and by Public Law 97-241 [S. 1193], 96 Stat. 273 at 299, approved August 24, 1982

AN ACT To authorize fiscal year 1978 appropriations for the Department of State, the United States Information Agency, and the Board for International Broadcasting, and for other purposes

> NOTE.—Sections amend other State Department or foreign relations legislation and are incorporated elsewhere in this volume.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1. This Act may be cited as the "Foreign Relations Authorization Act, Fiscal Year 1978".

TITLE I—STATE DEPARTMENT

AUTHORIZATION OF APPROPRIATIONS

Sec. 101. (a) There are authorized to be appropriated for the Department of State for fiscal year 1978, to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States, including trade negotiations, and other purposes authorized by law, the following amounts:

(1) For the "Administration of Foreign Affairs", $762,005,000.

(2) For "International Organizations and Conferences", $426,687,000.[1]

(3) For "International Commissions", $21,839,000.

(4) For "Education Exchange", $94,600,000.

(5) For "Migration and Refugee Assistance", $63,554,000.

(6) For increases in salary, pay, retirement, and other employee benefits authorized by law, and for other nondiscretionary costs, such amounts as may be necessary.

(b) Amounts appropriated under this section are authorized to remain available until expended.

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[1] This authorization figure was substituted in lieu of the original authorization of $389,412,000 by sec. 102 of Public Law 95-426 (92 Stat. 963).

TRANSFER AUTHORITY

Sec. 102. Funds authorized to be appropriated for fiscal year 1978 by any paragraph of section 101(a) (other than paragraph (6)) may be appropriated for such fiscal year for a purpose for which appropriations are authorized by any other paragraph of such section (other than paragraph (6)), except that the total amount appropriated for a purpose described in any paragraph of section 101(a) (other than paragraph (6)) may not exceed the amount specifically authorized for such purpose by section 101(a) by more than 10 per centum.

CONTRIBUTION TO THE WORLD HEALTH ORGANIZATION

Sec. 103. Notwithstanding the limitation contained in the proviso in the paragraph under the subheading "Contributions to International Organizations" in title I of the Act of October 25, 1972 (86 Stat. 1110),[2] $7,281,583 of the amount authorized to be appropriated by section 101(a)(2) of this Act may be used to pay the unpaid portion of the United States assessed contributions to the World Health Organization for the calendar years 1974 through 1977.

ASSISTANCE FOR REFUGEES SETTLING IN ISRAEL

Sec. 104. Of the amount authorized to be appropriated by section 101(a)(5) of this Act, $20,000,000 shall be available only for assistance for the resettlement in Israel of refugees from the Union of Soviet Socialist Republics and from Communist countries in Eastern Europe.

CONTRIBUTION TO THE INTERNATIONAL COMMITTEE OF THE RED CROSS

Sec. 105.[3] * * * [Repealed—1985]

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STRENGTHENING EDUCATIONAL EXCHANGE PROGRAMS

Sec. 107.[4] The Congress finds that—

(1) for over thirty years the United States program for the international exchange of teachers and scholars, begun by the Act of August 1, 1946 (60 Stat. 754; known as the "Fulbright Act of 1946"), has contributed significantly to the free flow of knowledge and to greater understanding between the United States and other nations;

(2) it is in the interest of the United States that this program be strengthened; and

(3) a still stronger educational exchange program can be attained by—

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[2] Such Act placed a 25 percent ceiling on U.S. payments of assessed contributions to the United Nations or any affiliated agency. The amount authorized in this section was in excess of the 25 percent limit. For complete text of the proviso of this Act, see page 970.

[3] Sec. 105 was repealed by sec. 109(d) of Public Law 99-93 (99 Stat. 410).

[4] Sec. 505(a)(3) of Public Law 97-241 (96 Stat. 299) repealed subsec. (b) of this section which had required a report from the Secretary of State on measures taken to strengthen educational exchange activities. The Secretary submitted this report on January 3, 1978.

(A) diversifying exchange opportunities so as to assist persons from professional and public life to spend time in an academic setting and to assist teachers and scholars to spend time in professional and other pursuits in the public arena;

(B) providing sharper focus to exchange activities by bringing selected grant recipients together for joint work on themes and problems identified as having current significance in international affairs; and

(C) lengthening the period of some scholarships to allow work by grant recipients to be phased over more than one location.

AMERICANS INCARCERATED ABROAD

Sec. 108.[5] It is the sense of the Congress that the Secretary of State should make every effort to seek the early release of American citizens unjustifiably held in foreign jails, and that he should direct the appropriate consular officers to redouble their efforts for the protection and welfare of imprisoned American citizens abroad. Beginning February 15, 1978, the Secretary of State shall transmit annually to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report on the number of American citizens in foreign jails, the charges against them, and what measures have been taken to assist these individuals, including his assessment of the performance of embassy and consular personnel in providing such assistance in each foreign country where American citizens are incarcerated.

ASSISTANT SECRETARIES OF STATE

Sec. 109. (a) * * *

(6)[6] The individual holding the position of Coordinator for Human Rights and Humanitarian Affairs on the date of enactment of this section shall assume the duties of the Assistant Secretary of State for Human Rights and Humanitarian Affairs and shall not be required to be reappointed by reason of the enactment of this section.

(7)[7] * * * [Repealed—1982]

(b)(1) Section 104 of the Immigration and Nationality Act[8] (8 U.S.C. 1104) is amended—

(A) in subsection (a)(2), by striking out "Security and";

(B) in subsection (b)—

(i) in the first sentence by striking out "Security and" and all that follows through "Assistant Secretary of State" and inserting in lieu thereof "Consular Affairs to be headed by an Assistant Secretary of State for Consular Affairs";

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[5] 22 U.S.C. 2151n-1. See also the Act of July 27, 1868 (Protection of Citizens Abroad).

[6] 22 U.S.C. 2384 note.

[7] Paragraph (7), which had required a report from the Secretary of State on operations and organization plans for the Office of the Assistant Secretary for Human Rights and Humanitarian Affairs, was repealed by sec. 505(a)(3) of Public Law 97-241 (96 Stat. 299). The Secretary submitted this report on January 31, 1978.

[8] For complete text of sec. 104 of the Immigration and Nationality Act (Public Law 82-414), see page 251.

(ii) by striking out the second sentence; and

(iii) in the third sentence, by striking out "administrator" and inserting in lieu thereof "Assistant Secretary of State for Consular Affairs";

(C) in subsection (d), by striking out "Security and"; and

(D) by repealing subsection (f).

(2) Section 105 of such Act [9] is amended by striking out "administrator" both places it appears and inserting in lieu thereof "Assistant Secretary of State for Consular Affairs".

(3) Section 101(a)(1) of such Act [10] is amended by striking out "administrator of the Bureau of Security and Consular Affairs of the Department of State" and inserting in lieu thereof "Assistant Secretary of State for Consular Affairs".

(4) The individual holding the position of administrator of the Bureau of Security and Consular Affairs on the date of enactment of this section shall assume the duties of the Assistant Secretary of State for Consular Affairs and shall not be required to be reappointed by reason of the enactment of this section.

(5) Any reference in any law to the Bureau of Security and Consular Affairs or to the administrator of such Bureau shall be deemed to be a reference to the Bureau of Consular Affairs or to the Assistant Secretary of State for Consular Affairs, respectively.

(c) * * *

(d) Section 5315 of title 5, United States Code,[11] is amended—

(1) by repealing paragraph (1); and

(2) by striking out "(11)" in paragraph (22) and inserting in lieu thereof "(13)".

SAINT LAWRENCE SEAWAY TOLL NEGOTIATIONS

Sec. 110. (a) There is established an advisory board (hereafter in this section referred to as the "Board") to advise the Secretary of State with respect to the negotiations with Canada concerning toll increases on the Saint Lawrence Seaway and the Welland Canal.

(b) The Board shall consist of 15 members appointed by the President from among representatives of groups in the Great Lakes area which would be affected most directly by increased tolls, including port directors, port authorities, maritime labor, shipping companies, shippers, and consumers.

(c)(1) Members of the Board shall each be entitled to receive the daily equivalent of the maximum annual rate of basic pay in effect for grade GS-15 of the General Schedule for each day (including traveltime) during which they are engaged in the actual performance of duties vested in the Board.

(2) While away from their homes or regular places of business in the performance of services for the Board, members of the Board shall be allowed travel expenses, including per diem in lieu of sub-

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[9] Sec. 105 of Public Law 82-414 provided authority for the Assistant Secretary of State for Consular Affairs to maintain direct liaison with the Directors of the FBI, CIA, and other internal security officers of the Government.

[10] Sec. 101(a)(1) of Public Law 82-414 defined the term, "administrator".

[11] Sec. 5315 of title 5 concerned Executive Schedule pay rates for positions at level IV.

sistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

(d) The Board shall cease to exist on the date designated by the Secretary of State as the date on which the negotiations described in subsection (a) are completed or on September 30, 1978, whichever date occurs first.

LIABILITY OF CONSULAR OFFICERS

Sec. 111. (a)(1) Sections 1735 and 1736 of the Revised Statutes of the United States (22 U.S.C. 1199) are repealed.[12]

(2) The section analysis of chapter two of title XVIII of the Revised Statutes of the United States is amended by striking out the items relating to sections 1735 and 1736.

(b) The repeals made by subsection (a) shall not affect suits commenced before the date of enactment of this Act.

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TITLE II—UNITED STATES INFORMATION AGENCY [13]

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TITLE IV—FOREIGN SERVICE AND OTHER PERSONNEL

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SPECIAL ANNUITY FOR CERTAIN OFFICERS SELECTED-OUT FROM THE FOREIGN SERVICE

Sec. 411.[14] (a) Subject to the conditions established in subsection (b), any Foreign Service officer—

(1) who was retired under section 633(a)(1) of the Foreign Service Act of 1946 before the date of enactment of this section;

(2) who was not in class 1, 2, or 3 at the time of retirement;

(3) who was 40 years of age or older at the time of retirement; and

(4) who had at least 20 years of service, exclusive of credit for unused sick leave, creditable for purposes of section 821 of such Act at the time of retirement;

shall be entitled to receive retirement benefits in accordance with the provisions of such section 824 in lieu of any retirement benefits which the officer may be entitled to elect under section 634(b)(2) of such Act. Such retirement benefits shall be paid from the Foreign Service Retirement and Disability Fund and shall be effective on the date the officer reaches age 50, the date of enactment of this section, or October 1, 1977, whichever date is latest.

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[12] These sections authorized suits against U.S. consular officers for damages due to willful neglect or failure to perform any duty imposed by law.

[13] For text of this title, see page 647.

[14] 22 U.S.C. 1004 note.

(b) Retirement benefits may not be paid under this section unless (1) any refund of contributions paid to the officer under section 634(b)(2) of the Foreign Service Act of 1946 is repaid to the Foreign Service Retirement and Disability Fund, with interest, in accordance with sections 811 (d) and (f) of such Act; and (2) the service forming the basis for such retirement benefits is not used as the basis for any other retirement benefits under any retirement system.

(c) In the event that an officer who is entitled to retirement benefits under this section dies before reaching the age of fifty, but after the date of enactment of this section, his or her death shall be considered a death in service within the meaning of section 832 of the Foreign Service Act of 1946,[15] except that no survivor's annuity (other than a survivor's annuity which would be payable under the first complete sentence in section 634(b)(2) of such Act but for the enactment of this section) shall become effective before October 1, 1977.

(d) An officer entitled to retirement benefits under this section may make the election described in section 821 (b) or (f), as appropriate, of the Foreign Service Act of 1946 [15] at any time before reaching the age of fifty or before the end of the sixty-day period beginning on the date of enactment of this section, whichever is later.

COMPENSATION FOR JUNIOR FOREIGN SERVICE OFFICERS

Sec. 412. (a)(1) Paragraph (2) of section 5541 of title 5, United States Code, is amended—[16]

(A) by striking out "or" at the end of clause (xii);

(B) by striking out the period at the end of clause (xiii) and inserting in lieu thereof a semicolon; and

(C) by adding at the end thereof the following clauses:

"(xiv) a 'Foreign Service officer' within the meaning of section 401 of the Foreign Service Act of 1946; or

"(xv) a 'Foreign Service information officer' as provided for by the first section of the Act entitled 'An Act to promote the foreign policy of the United States by strengthening and improving the Foreign Service personnel system of the International Communication Agency [17] through establishment of a Foreign Service Information Officer Corps,' approved August 20, 1968".

(2) The amendments made by paragraph (1) shall take effect on October 1, 1978.

(b) * * * [Repealed—1978] [18]

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[15] Such Act was repealed by the Foreign Service Act of 1980.

[16] This amendment to section 5541 of title 5 excluded Foreign Service officers from civil service law which required overtime pay for certain Federal employees of GS-10 or lesser rank.

[17] The reference to the International Communication Agency was substituted in lieu of a reference to the United States Information Agency by sec. 204(b)(5) of Public Law 95-426 (92 Stat. 974). However, sec. 303 of Public Law 97-241 (96 Stat. 291) redesignated the Agency as the United States Information Agency and directed that any reference to the International Communication Agency shall be deemed to refer to the United States Information Agency.

[18] Subsec. (b), which had provided for a $250 per annum salary increase for Foreign Service officers in classes 5 through 8, was repealed by sec. 410 of Public Law 95-426 (92 Stat. 980). Such salary increase became effective with pay periods beginning on or after October 1, 1978.

EMPLOYMENT OF FOREIGN SERVICE SPOUSES

Sec. 413.[19] * * * [Repealed—1981]

LANGUAGE TRAINING FOR FOREIGN SERVICE SPOUSES

Sec. 414.[20] It is the sense of Congress that, in order to increase the effectiveness of United States diplomatic representation abroad, the Secretary of State should make greater use of his authority under section 701 of the Foreign Service Act of 1946 in order to increase the language training opportunities available to the family members of Foreign Service personnel.

TITLE V—MISCELLANEOUS PROVISIONS

STRENGTHENING INTERNATIONAL INFORMATION, EDUCATION, CULTURAL AND BROADCASTING ACTIVITIES

Sec. 501.[21] [Repealed—1982]

BELGRADE CONFERENCE

Sec. 502. The Congress finds that the Belgrade Conference to review compliance with the Helsinki Accords provides the United States an important forum to press its case for greater respect for human rights. Furthermore, the Congress is convinced that the emphasis given human rights in general by the United States should be translated into concern for specific individuals. In this regard, the Congress is particularly concerned about the fate of Anatoly Shcharansky and urges the United States representatives to the Belgrade Conference to express the official concern of the United States over the Shcharansky case.

UNITED NATIONS REFORM

Sec. 503.[22] The United States should make a major effort toward reforming and restructuring the United Nations system so that it might become more effective in resolving global problems. Toward that end, the United States should present a program for United Nations reform to the Special United Nations Committee on the Charter of the United Nations and on Strengthening of the Role of the Organization. In developing such a program the United States should give appropriate consideration to various possible proposals for reforming the United Nations, including but not limited to proposals which would—

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[19] Sec. 413 was repealed by sec. 2205(3) of the Foreign Service Act of 1980 (Public Law 96–465, 94 Stat. 2160). For current text concerning the employment of family members of Foreign Service personnel, see sec. 311 of the Foreign Service Act of 1980, page 285.

[20] U.S.C. 1041 note. Sec. 505(a)(3) of Public Law 97–241 (96 Stat. 299) repealed subsec. (b) of this section which had required a report from the Secretary of State on increased language training opportunity for the families of Foreign Service personnel. The Secretary submitted this report on December 20, 1977.

[21] Sec. 501, which had required a report from the President containing recommendations for reorganizing the international information, education, cultural, and broadcasting activities of the United States, was repealed by sec. 505(a)(3) of Public Law 97–241 (96 Stat. 299). The President submitted this report on October 31, 1977.

[22] Sec. 505(a)(3) of Public Law 97–241 (96 Stat. 299) repealed subsec. (b) of this section which had required a report from the President on recommendations for reform in the United Nations. The President submitted this report on March 7, 1978.

(1) adjust decisionmaking processes in the United Nations by providing voting in the General Assembly weighted according to population and contributions and by modifying veto powers on certain categories of questions, such as membership recommendations, in the Security Council;

(2) foster greater use of the International Court of Justice by the United States and other members of the United Nations;

(3) supplement United Nations finances through contributions from commerce, services, and resources regulated by the United Nations;

(4) improve coordination of and expand United Nations activities on behalf of human rights;

(5) establish more effective United Nations machinery for the peaceful settlement of disputes, including means for the submission of differences to mediation or arbitration;

(6) adjust assessment scale calculations to reflect more accurately the actual ability of member nations to contribute to the United Nations and its specialized agencies; and

(7) provide greater coordination of United Nations technical assistance activities by the United Nations Development program.

INFORMATION OFFICES IN THE UNITED STATES

Sec. 504. It is the sense of the Congress that any foreign country should be allowed to maintain an information office in the United States if maintenance of such office is consistent with United States law.

REPARATIONS FOR VIETNAM

Sec. 505.[23] The President shall continue to take all possible steps to obtain a final accounting of all Americans missing in action in Vietnam.

PANAMA CANAL

Sec. 506. Any new Panama Canal treaty or agreement negotiated with funds appropriated under this Act must protect the vital interests of the United States in the Canal Zone and in the operation, maintenance, property, and defense of the Panama Canal.

UNITED NATIONS CONFERENCE ON SCIENCE AND TECHNOLOGY FOR DEVELOPMENT

Sec. 507. (a) The President shall take appropriate steps to ensure that, at all stages of the United Nations Conference on Science and Technology for Development, representatives of the United States place important emphasis, in both official statements and informal discussions, on the development and use of light capital technologies in agriculture, in industry, and in the production and conservation of energy.

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[23] 22 U.S.C. 2151 note. Sec. 505(a)(3) of Public Law 97-241 (96 Stat. 299) repealed subsec. (a) of this section which had prohibited the use of any funds authorized to be appropriated by this Act for reparations, aid, or any other form of payment to Vietnam.

(b) As used in this section, the term "light capital technologies" means those means of production which economize on capital wherever capital is scarce and expensive and labor abundant and cheap, the purposes being to insure that the increasingly scarce capital in the world can be stretched to help all, rather than a small minority, of the world's poor; that workers will not be displaced by sophisticated labor-saving devices where there is already much unemployment; and further, that, poor nations can be encouraged eventually to produce their own capital from surplus labor time, thus enhancing their chances of developing independently of outside help.

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FOREIGN EMPLOYMENT

Sec. 509. (a)-(c) [24] * * * [Repealed—1982]

(d)(1) Section 1032 of title 10, United States Code, is repealed.[25]

(2) The section analysis for chapter 53 of such title is amended by striking out the item relating to section 1032.

(3) Section 280 of such title is amended by striking out "1032,".

INTERNATIONAL FOOD RESERVE

Sec. 510.[26] (a) The Congress finds and declares that—

(1) half a billion people suffer from malnutrition or undernutrition;

(2) very modest shortfalls in crop production can result in widespread human suffering;

(3) increasing variability in world food production and trade remains an ever-present threat to producers and consumers;

(4) the World Food Conference recognized the urgent need for an international undertaking on world food security based largely upon strategic food reserves;

(5) the nations of the world have agreed to begin discussions on a system of grain reserves to regulate food availability;

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[24] Public Law 97-295 (96 Stat. 1304) made technical amendments to the text of secs. 509(a)-(c), codified it at 37 U.S.C. 908, and repealed the existing language of secs. 509(a)-(c). 37 U.S.C. 908 read as follows:

"§ 908. Employment of reserves and retired members by foreign governments

"(a) Subject to subsection (b) of this section, Congress consents to the following persons accepting civil employment (and compensation for that employment) for which the consent of Congress is required by the last paragraph of section 9 of article I of the Constitution, related to acceptance of emoluments, offices, or titles from a foreign government:

"(1) Retired members of the uniformed services.

"(2) Members of a reserve component of the armed forces.

"(3) Members of the Commissioned Reserve Corps of the Public Health Service.

"(b) A person described in subsection (a) of this section may accept employment or compensation described in that subsection only if the Secretary concerned and the Secretary of State approve the employment.".

[25] Sec. 1032, title 10, granted congressional consent of foreign employment to reserve officers of the Armed Forces only.

[26] 22 U.S.C. 2220 note.

(6) the Congress through legislation has repeatedly urged the President to enter negotiations with other nations to establish such a network of grain reserves;

(7) little progress has resulted from the initial multilateral discussions toward the negotiation of an international grain reserve system;

(8) this lack of progress caused, in part, by lack of leadership in such discussions; and

(9) the United States is in a unique position as the world's most important producer of foodstuffs to provide such leadership.

(b) It is therefore the sense of the Congress that the President should initiate a major diplomatic initiative toward the creation of an international system of nationally held grain reserves which provides for supply assurance to consumers and income security to producers.

NEGOTIATIONS WITH CUBA

Sec. 511. (a) It is the sense of the Congress that any negotiations toward the normalization of relations with Cuba be conducted in a deliberate manner and on a reciprocal basis, and that the vital concerns of the United States with respect to the basic rights and interests of United States citizens whose persons or property are the subject of such negotiations be protected.

(b) Furthermore, it is the sense of Congress that the Cuban policies and actions regarding the use of its military and paramilitary personnel beyond its borders and its disrespect for the human rights of individuals are among the elements which must be taken into account in any such negotiations.

UNITED STATES POLICY TOWARD KOREA

Sec. 512.[27] (a) The Congress declares that—

(1) United States policy toward Korea should continue to be arrived at by joint decision of the President and the Congress;

(2) in any implementation of the President's policy of gradual and phased reduction of United States ground forces from the Republic of Korea, the United States should seek to accomplish such reduction in stages consistent with United States interests in Asia, notably Japan, and with the security interests of the Republic of Korea;

(3) any implementation of this policy should be carried out with a careful regard to the interest of the United States in continuing its close relationship with the people and government of Japan, in fostering democratic practices in the Republic of Korea, and in maintaining stable relations among the countries of East Asia; and

(4) these interests can be served most effectively by a policy which involves consultations by the United States Government, as appropriate, with the governments of the region, particularly those directly involved.

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[27] 22 U.S.C. 2428a.

(b)(1) Any implementation of the foregoing policy shall be carried out in regular consultation with the Congress.

(2) Not later than February 15, 1978, and not later than February 15 of each year thereafter until any such withdrawal is completed, the President shall transmit a report in writing to the Speaker of the House of Representatives and the Committees on Foreign Relations, Armed Services, and Intelligence of the Senate assessing the implementation of the foregoing policy.

UNITED NATIONS SPECIAL SESSION ON DISARMAMENT

Sec. 513.[28] * * * [Repealed—1982]

INTERNATIONAL BOUNDARY AND WATER COMMISSION

Sec. 514. (a) Section 2(2) of the Act entitled "An Act to authorize conclusion of an agreement with Mexico for joint measures for solution of the Lower Rio Grande salinity problem," approved September 19, 1966 (22 U.S.C. 277d-31), is amended by inserting immediately after "$25,000" the following: "based on estimated calendar year 1976 costs, plus or minus such amounts as may be justified by reason of ordinary fluctuations in operation and maintenance costs involved therein,".

(b) Section 3 of the Act entitled "An Act to authorize the conclusion of agreements with Mexico for joint construction, operation, and maintenance of emergency flood control works on the lower Colorado River, in accordance with the provisions of article 13 of the 1944 Water Treaty with Mexico, and for other purposes", approved August 10, 1964 (22 U.S.C. 277d-28), is amended by inserting immediately after "$30,000" the following: "based on December 1975 prices, plus or minus such amounts as may be justified by reason of ordinary fluctuations in operation and maintenance costs involved therein,".

(c) Section 103 of the American-Mexican Treaty Act of 1950 (22 U.S.C. 277d-3) is amended by striking out "$100 per diem" in the second sentence and inserting in lieu thereof "the maximum daily rate for grade GS-15 of the General Schedule".

(d) The amendments made by this section shall take effect on October 1, 1977.

FOREIGN GIFTS AND DECORATIONS

Sec. 515. (a) [29] * * *

(b)(1) After September 30, 1977, no appropriated funds, other than funds from the "Emergencies in the Diplomatic and Consular Service" account of the Department of State, may be used to purchase any tangible gift of more than minimal value (as defined in section 7342(a)(5) of title 5, United States Code) for any foreign individual unless such gift has been approved by the Congress.

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[28] Sec. 513, which had requested the Secretary of State to report at an appropriate date to Congress on procedures followed by the executive branch in preparation for the U.S. special session on disarmament and on U.S. objectives for that special session, was repealed by Sec. 505(a)(3) of Public Law 97-241 (96 Stat. 299).

[29] Subsec. (a) comprehensively amended sec. 7342 of title 5, U.S.C., entitled, "Receipt and disposition of foreign gifts and decorations." For text, see page 547.

(2) Beginning October 1, 1977, the Secretary of State shall annually transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report containing details on (1) any gifts of more than minimal value purchased with appropriated funds which were given to a foreign individual during the previous fiscal year, and (2) any other gifts of more than minimal value given by the United States Government to a foreign individual which were not obtained using appropriated funds.

h. Foreign Relations Authorization Act, Fiscal Year 1977

Partial text of Public Law 94-350 [S. 3168], 90 Stat. 823, approved July 12, 1976; as amended by Public Law 95-45 [H.R. 5040], 91 Stat. 221, approved June 15, 1977; Public Law 96-465 [Foreign Service Act of 1980, H.R. 6790], 94 Stat. 2071 at 2160, approved October 17, 1980; and by Public Law 97-241 [S. 1193], 96 Stat. 273 at 299, approved August 24, 1982

AN ACT To authorize fiscal year 1977 appropriations for the Department of State, the United States Information Agency, and the Board for International Broadcasting, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Foreign Relations Authorization Act, Fiscal Year 1977".

NOTE.—Sections amend other State Department or foreign relations legislation and are incorporated elsewhere in this volume. In addition, title V of this Act which relates to Foreign Service retirement may be found on page 405.

TITLE I—STATE DEPARTMENT

AUTHORIZATION OF APPROPRIATIONS

Sec. 101. (a) There are authorized to be appropriated for the Department of State for fiscal year 1977, to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States, including trade negotiations, and other purposes authorized by law, the following amounts:

(1) For the "Administration of Foreign Affairs", $552,455,000.

(2) For "International Organizations and Conferences", $402,460,453.[1]

(3) For "International Commissions", $17,069,000.

(4) For "Educational Exchange", $68,500,000.

(5) For "Migration and Refugee Assistance", $28,725,000.[2]

(6) For increases in salary, pay, retirement, and other employee benefits authorized by law, and for other nondiscretionary costs, such amounts as may be necessary.

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[1] Sec. 1 of Public Law 95-45 substituted "$402,460,453" and "$28,725,000" in lieu of "$342,460,453" and "$10,000,000," respectively.

[2] The Supplemental Appropriations Act, 1977 (Public Law 95-26), provided: "For an additional amount for 'Migration and refugee assistance', $18,725,000, to remain available until December 31, 1977: *Provided,* That of the funds appropriated under this paragraph, $3,000,000 shall be allocated for reception and placement of refugees in the United States: *Provided further,* That this appropriation shall be made available only upon enactment into law of authorizing legislation."

(b) Amounts appropriated under this section are authorized to remain available until expended.

TRANSFER AUTHORITY

Sec. 102. Funds authorized to be appropriated for fiscal year 1977 by any paragraph of section 101(a) (other than paragraph (6)) may be appropriated for such fiscal year for a purpose for which appropriations are authorized by any other paragraph of such section (other than paragraph (6)), except that the total amount appropriated for a purpose described in any paragraph of section 101(a) (other than paragraph (6)) may not exceed the amount specifically authorized for such purpose by section 101(a) by more than 10 per centum.

CONTRIBUTION TO THE UNITED NATIONS EDUCATIONAL, SCIENTIFIC, AND CULTURAL ORGANIZATION

Sec. 103. Notwithstanding the limitation contained in the proviso in the paragraph under the subheading "Contributions to International Organizations" in title I of the Act of October 25, 1972 (86 Stat. 1110), and notwithstanding the requirements of section 302(h) of the Foreign Assistance Act of 1961, $3,545,453 of the amount authorized to be appropriated by section 101(a)(2) of this Act may be used to complete the fiscal year 1975 United States contribution to the United Nations Educational, Scientific, and Cultural Organization.

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RUSSIAN REFUGEE ASSISTANCE

Sec. 105. In addition to amounts otherwise available, there are authorized to be appropriated to the Secretary of State for fiscal year 1977 not to exceed $20,000,000 [3] to carry out the provisions of section 101(b) of the Foreign Relations Authorizations Act of 1972 [4] (relating to Russian refugee assistance) and to furnish similar assistance to refugees from Communist countries in Eastern Europe. None of the funds appropriated under this section may be used to resettle refugees in any country other than Israel. Amounts appropriated under this section are authorized to remain available until expended.

UNITED STATES PASSPORT OFFICE

Sec. 106. In addition to amounts otherwise available for such purposes, there is authorized to be appropriated for fiscal year

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[3] The Foreign Assistance Appropriations Act, 1977, provided: "For necessary expenses to carry out the provisions of section 101(b) of the Foreign Relations Authorization Act of 1972 and the provisions of section 105 of the Foreign Relations Authorization Act, Fiscal Year 1977, $15,000,000."

[4] Sec. 101(b) of the Foreign Relations Authorizations Act of 1972 read as follows: "The Secretary of State is authorized to furnish, on terms and conditions he considers appropriate, assistance to Israel or another suitable country, including assistance for the resettlement in Israel or such country of Jewish or other similar refugees from the Union of Soviet Socialist Republics. There are authorized to be appropriated to the Secretary not to exceed $85,000,000 to carry out the provisions of this subsection."

1977, $1,000,000, to be used for miniaturization of the files of the United States Passport Office. Amounts appropriated under this section are authorized to remain available until expended.

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PAYMENT TO LADY CATHERINE HELEN SHAW

Sec. 108. Of the amount appropriated under paragraph (1) of section 101(a) of this Act for salaries and expenses, $10,000 shall be available for payment ex gratia to Lady Catherine Helen Shaw, wife of the former Australian Ambassador to the United States, as an expression of the concern of the United States Government for the injuries which she sustained as a result of an attack on her in the District of Columbia.

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PAN AMERICAN GAMES

Sec. 110. (a) The Congress finds that—

(1) the Eighth Pan American Games to be held in San Juan, Puerto Rico, in 1979 will provide an opportunity for more than six thousand young men and women, representing thirty-three countries in the Western Hemisphere, to participate in friendly athletic competition;

(2) international sporting events such as the Eighth Pan American Games make a unique contribution in promoting common understanding and mutual respect among people of different cultural backgrounds; and

(3) the President has the authority under the Mutual Educational and Cultural Exchange Act of 1961 to provide financing, when he considers that it would strengthen international cooperative relations, for (A) tours abroad by American athletes, (B) United States representation in international sports competitions, and (C) participation by groups and individuals from other countries in tours and in sports competitions in the United States.

(b) In order to strengthen international cooperative relations and promote the purposes of the Mutual Educational and Cultural Exchange Act of 1961,[5] the Secretary of State shall use funds appropriated to carry out this section to provide financial assistance for the Eighth Pan American Games to be held in Puerto Rico in 1979. Such funds shall be transferred by the Secretary to the Recreation Development Company of Puerto Rico (a government corporation of the Commonwealth of Puerto Rico) for expenses directly related to the Eighth Pan American Games, including expenses for—

(1) promoting, organizing, and conducting such games;

(2) constructing new and repairing existing athletic and recreational facilities;

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[5] The Supplemental Appropriations Act, 1977 (Public Law 95-26, 91 Stat. 89), appropriated $10,000,000, "to remain available until expended."

(3) providing lodging, food, and transportation for participants in such games and for related personnel; and

(4) acquiring necessary material and equipment for such games. Such expenditures shall be subject to such controls and audits as the Comptroller General may prescribe.

(c) To carry out this section, there is authorized to be appropriated to the Secretary of State $12,000,000.[5]

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MEMBERSHIP AUTHORITY FOR INTERNATIONAL ORGANIZATIONS

Sec. 113. The President is authorized to maintain United States membership in the International Cotton Advisory Committee, the International Lead and Zinc Study Group, the International Rubber Study Group, and the International Seed Testing Association.

PANAMA CANAL

Sec. 114. Any new Panama Canal treaty or agreement negotiated with funds appropriated under this title must protect the vital interests of the United States in the Canal Zone and in the operation, maintenance, property, and defense of the Panama Canal.

INTERNATIONAL JOINT COMMISSION

Sec. 115. After the date of enactment of this Act, any commissioner of the International Joint Commission appointed on the part of the United States, pursuant to article VII of the treaty between the United States and Great Britain relating to boundary waters between the United States and Canada, signed at Washington on January 11, 1909 (36 Stat. 2448, TS 548, III Redmond 2607), shall be appointed by the President by and with the advice and consent of the Senate.

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STATE DEPARTMENT/UNITED STATES INFORMATION AGENCY PERSONNEL SYSTEM

Sec. 117.[6] * * * [Repealed—1981]

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APPOINTMENT OF AMBASSADORS

Sec. 120.[7] * * * [Repealed—1981]

DISCRIMINATION

Sec. 121.[8] Information should not be disseminated about opportunities for, and there should be no participation or other assistance by any officer or employee of the Department of State (including the Agency for International Development) in, the negotiation of any contract or arrangement with a foreign country, individual, or entity, if—

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[6] Sec. 117 was repealed by sec. 2205(4) of the Foreign Service Act of 1980 (Public Law 96-465, 94 Stat. 2160).

[7] Sec. 120 was repealed by sec. 2205(4) of the Foreign Service Act of 1980 (Public Law 96-465, 94 Stat. 2160).

[8] 22 U.S.C. 2661a.

(1) any United States person (as defined in section 7701(a)(30) of the Internal Revenue Code of 1954) is prohibited from entering into such contract or arrangement, or

(2) such contract or arrangement requires that any such person be excluded from participating in the implementation of such contract or arrangement,

on account of the race, religion, national origin, or sex of such person in the case of an individual or, in the case of a partnership, corporation, association, or other entity, any officer, employee, agent, director, or owner thereof.

TITLE II—UNITED STATES INFORMATION AGENCY [9]

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TITLE IV—MISCELLANEOUS

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REPORT ON INTERNATIONAL BROADCASTING

Sec. 403.[10] * * * [Repealed—1982]

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[9] For text of this title, see page 650.

[10] Sec. 403, which had required a report from the President concerning international broadcasting, was repealed by sec. 505(a)(4) of Public Law 97-241 (96 Stat. 299). The President submitted this report on March 22, 1977.

i. Foreign Relations Authorization Act, Fiscal Year 1976

Partial text of Public Law 94-141 [S. 1517], 89 Stat. 756, approved November 29, 1975; as amended by Public Law 97-241 [S. 1193], 96 Stat. 273 at 299, approved August 24, 1982

AN ACT To authorize appropriations for the administration of foreign affairs; international organizations, conferences, and commissions; information and cultural exchange; and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Foreign Relations Authorization Act, Fiscal Year 1976".

TITLE I—ADMINISTRATION OF FOREIGN AFFAIRS

PART 1—DEPARTMENT OF STATE

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TRAVEL DOCUMENT AND ISSUANCE SYSTEM

Sec. 102.[1] No part of any funds authorized to be appropriated by this title may be used for the development or implementation of the Travel Document and Issuance System which has been proposed by the United States Passport Office (and which involves a restructuring of the passport issuance function and the issuance of machine readable passport books), or of any other new passport system.

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REOPENING OF UNITED STATES CONSULATE AT GOTHENBURG, SWEDEN

Sec. 105. (a) It is the sense of the Congress that the United States Consulate at Gothenburg, Sweden, should be reopened as soon as possible after the date of enactment of this Act.

(b)(1) There are authorized to be appropriated for the Department of State for fiscal year 1976, in addition to amounts authorized under section 101 of this Act, such sums as may be necessary for the operation of such consulate.

(2) Amounts appropriated under this subsection are authorized to remain available until expended.

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[1] Sec. 505(a)(5) of Public Law 97-241 (96 Stat. 299) repealed subsec. (b) of this section which had authorized $100,000 to conduct a study on the desirability and cost implications of the Travel Document and Issuance System. Congress received this study on February 5, 1976.

AGRICULTURAL ATTACHÉ IN CHINA

Sec. 106. It is the sense of the Congress that the President should establish an agricultural attaché in the People's Republic of China.

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TITLE II—INTERNATIONAL ORGANIZATIONS, CONFERENCES, AND COMMISSIONS

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UNITED STATES CONTRIBUTION TO THE UNITED NATIONS UNIVERSITY ENDOWMENT FUND

Sec. 205. There is authorized to be appropriated, upon request of the President, to the President for fiscal year 1977, $10,000,000 to be used for a contribution of the United States to the United Nations University Endowment Fund, such contribution to be made on such terms as the President finds will promote the purposes of the University as stated in University Charter approved by the General Assembly of the United Nations in December 1973; except that the contribution of the United States to the United Nations University Endowment Fund may not exceed 25 per centum of the total amount actually contributed to such fund by other members of the United Nations. Amounts appropriated under this section are authorized to remain available until expended.

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TITLE IV—FOREIGN SERVICE

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AUTHORITY OF CERTAIN OFFICERS AND EMPLOYEES TO CARRY FIREARMS

Sec. 406. The Act of June 28, 1955 (22 U.S.C. 2666) is amended by striking out all after the enacting clause and inserting in lieu thereof the following: "That, under such regulations as the Secretary of State may prescribe, security officers of the Department of State and the Foreign Service who have been designated by the Secretary of State and who have qualified for the use of firearms, are authorized to carry firearms for the purpose of protecting heads of foreign states, official representatives of foreign governments, and other distinguished visitors to the United States, the Secretary of State, the Deputy Secretary of State, official representatives of the United States Government, and members of the immediate families of any such persons, both in the United States and abroad. The Secretary shall transmit such regulations to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate not more than twenty days before the date on which such regulations take effect.".

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UNITED NATIONS COOPERATION REGARDING MEMBERS OF UNITED STATES ARMED FORCES MISSING IN ACTION IN SOUTHEAST ASIA

Sec. 503.[2] The President shall direct the United States Ambassador to the United Nations to insist that the United Nations take all necessary and appropriate steps to obtain an accounting of members of the United States Armed Forces and United States civilians missing in action in Southeast Asia.

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[2] Sec. 505(a)(5) of Public Law 97-241 (96 Stat. 299) repealed subsec. (b) of this section which had required a report from the President on actions taken by the United Nations to account for U.S. servicemen and civilians missing in action in Southeast Asia. The President submitted this report on June 1, 1976.

j. State Department/USIA Authorization Act, Fiscal Year 1975

Partial text of Public Law 93-475 [S. 3473], 88 Stat. 1439, approved October 26, 1974; as amended by Public Law 97-241 [S. 1193], 96 Stat. 273 at 299, approved August 24, 1982

AN ACT To authorize appropriations for the Department of State and the United States Information Agency, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "State Department/USIA Authorization Act, Fiscal Year 1975".

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REPEAL OF THE FORMOSA RESOLUTION

Sec. 3. The joint resolution entitled "Joint resolution authorizing the President to employ the Armed Forces of the United States for protecting the security of Formosa, the Pescadores and related possessions and territories of that area", approved January 29, 1955 (69 Stat. 7, Public Law 84-4), and known as the Formosa Resolution, is repealed.

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LIMITATION ON PAYMENTS

Sec. 8. There are authorized to be appropriated funds for payment prior to January 1, 1975, of United States expenses of membership in the United Nations Educational, Scientific, and Cultural Organization, the International Civil Aviation Organization, and the World Health Organization notwithstanding that such payments are in excess of 25 percent of the total annual assessment of such organizations.

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INTERNATIONAL MATERIALS

Sec. 14. It is the sense of the Congress that the Secretary of State should, and he is authorized to, establish within the Department of State a bureau which shall be responsible for continuously reviewing (1) the supply, demand, and price, throughout the world, of basic raw and processed materials (including agricultural commodities), and (2) the effect of United States Government programs and policies (including tax policy) in creating or alleviating, or assisting in creating or alleviating, shortages of such materials. In conducting such review, the bureau should obtain information with respect to—

(A) the supply, demand, and price of each such material in each major importing, exporting, and producing country and region of the world in order to understand long-term and short-term trends in the supply, demand, and price of such materials;

(B) projected imports and exports of such materials on a country-by-country basis;

(C) unusual patterns or changes in connection with the purchase or sale of such materials;

(D) a list of such materials in short supply and an estimate of the amount of shortage;

(E) international geological, geophysical, and political conditions which may affect the supply of such materials; and

(F) other matters that the Secretary considers appropriate in carrying out this section.

FUTURE OF UNITED STATES ASSISTANCE TO SOUTH VIETNAM; REDUCTION OF CERTAIN PERSONNEL ABROAD

Sec. 15.[1] * * * [Repealed—1982]

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[1] Sec. 15, which had expressed the sense of the Congress that the Secretary of State should prepare a plan to reduce aid to South Vietnam, that the number of executive branch personnel (except members of certain agencies) located overseas should be reduced, and that the number of Defense Department officials assigned to military aid missions abroad should be reduced, was repealed by sec. 505(a)(6) of Public Law 97-241 (96 Stat. 299). Pursuant to sec. 15, the Secretary of State submitted a report on April 28, 1975, describing steps taken to carry out these provisions.

k. Department of State Appropriations Authorization Act of 1973

Partial text of Public Law 93-126 [H.R. 7645], 87 Stat. 451, approved October 18, 1973; as amended by Public Law 93-312 [H.R. 12466], 88 Stat. 237, approved June 8, 1974; Public Law 93-475 [S. 3473], 88 Stat. 1439 approved October 26, 1974; Public Law 95-426 [Foreign Relations Authorization Act, Fiscal Year 1979, H.R. 12598], 92 Stat. 963 at 969, approved October 7, 1978; Public Law 96-465 [Foreign Service Act of 1980, H.R. 6790], 94 Stat. 2071 at 2160, approved October 17, 1980 and by Public Law 99-93 [H.R. 2068], 99 Stat. 405, approved August 16, 1985

AN ACT To authorize appropriations for the Department of State, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of State Appropriations Authorization Act of 1973".

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AMBASSADORS AND MINISTERS

Sec. 6.[1] * * * **[Repealed—1981]**

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BUREAU OF OCEANS AND INTERNATIONAL ENVIRONMENTAL AND SCIENTIFIC AFFAIRS

Sec. 9. (a) There is established within the Department of State a Bureau of Oceans and International Environmental and Scientific Affairs. In addition to the positions provided under the first section of the Act of May 26, 1949, as amended (22 U.S.C. 2652), there shall be an Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs, appointed by the President, by and with the advice and consent of the Senate, who shall be the head of the Bureau and who shall have responsibility for matters relating to oceans, environmental, scientific, fisheries, wildlife, and conservation affairs.

(b)[2] Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

(99) Assistant Secretary for Oceans and International Environmental and Scientific Affairs, Department of State.

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[1] Sec. 6, as amended by Public Law 93-475, was repealed by sec. 2205(5) of the Foreign Service Act of 1980 (Public Law 96-465, 94 Stat. 2160). Sec. 6 had required the submission of a report to Congress detailing the political campaign contributions made by ambassadors and ministers (and their families) nominated by the President. This requirement now applies to all individuals nominated to be chiefs of mission, ambassadors at large, and ministers, and can be found at sec. 304(b)(2) of the Foreign Service Act of 1980; see page 283.

[2] Subsecs. (b) and (c) were added by Public Law 93-312, 88 Stat. 238, approved June 8, 1974.

(c) [2] Paragraph (109) of section 5316 of title 5, United States Code, relating to the Director of International Scientific Affairs, Department of State, is repealed.

* * * * * * *

REIMBURSEMENT FOR DETAILED STATE DEPARTMENT PERSONNEL

Sec. 11. (a) An Executive agency to which any officer or employee of the Department of State is detailed, assigned, or otherwise made available, shall reimburse the Department for the salary and allowances of each such officer or employee for the period the officer or employee is so detailed, assigned, or otherwise made available. However, if the Department of State has an agreement with an Executive agency or agencies providing for the detailing, assigning, or otherwise making available, of substantially the same numbers of officers and employees between the Department and the Executive agency or agencies, and such numbers with respect to a fiscal year are so detailed, assigned, or otherwise made available, or if the period for which the officer or employee is so detailed, assigned, or otherwise made available does not exceed one year,[3] or if the number of officers and employees so detailed, assigned, or otherwise made available at any one time does not exceed fifteen and the period of any such detail, assignment, or availability of an officer or employee does not exceed two years,[4] no reimbursement shall be required to be made under this section. Officers and employees of the Department of State who are detailed, assigned, or otherwise made available to another Executive agency for a period of not to exceed one year shall not be counted toward any personnel ceiling for the Department of State established by the Director of the Office of Management and Budget.[3]

(b) For purposes of this section, "Executive agency" has the same meaning given that term by section 105 of title 5, United States Code.

* * * * * * *

REQUIREMENT FOR CONGRESSIONAL AUTHORIZATION FOR THE INVOLVEMENT OF AMERICAN FORCES IN FURTHER HOSTILITIES IN INDOCHINA, AND FOR EXTENDING ASSISTANCE TO NORTH VIETNAM

Sec. 13. Notwithstanding any other provision of law, on or after August 15, 1973, no funds heretofore or hereafter appropriated may be obligated or expended to finance the involvement of United States military forces in hostilities in or over or from off the shores of North Vietnam, South Vietnam, Laos, or Cambodia, unless specifically authorized hereafter by the Congress. Notwithstanding any other provision of law, upon enactment of this Act, no funds heretofore or hereafter appropriated may be obligated or expended for the purpose of providing assistance of any kind directly or indirectly, to or on behalf of North Vietnam, unless specifically authorized hereafter by the Congress.

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[3] Sec. 118 of Public Law 95-426 (92 Stat. 969) extended this time period from ninety days to one year and added the final sentence of subsec. (a).

[4] Sec. 117 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99-93, 99 Stat. 405), added text beginning with "or if the number * * *" to this point.

LIMITATION ON PUBLICITY AND PROPAGANDA PURPOSES

Sec. 14. No appropriation made available under this Act shall be used—

(1) for publicity or propaganda purposes designed to support or defeat legislation pending before Congress; or

(2) to influence in any way the outcome of a political election.

* * * * * * *

MUTUAL RESTRAINT ON MILITARY EXPENDITURES

Sec. 16. It is the sense of the Congress that the United States and the Union of Soviet Socialist Republics should, on an urgent basis and in their mutual interests, seek agreement on specific mutual reductions in their respective expenditures for military purposes so that both nations can devote a greater proportion of their available resources to the domestic needs of their respective peoples; and, the President of the United States is requested to seek such agreements for the mutual reduction of armament and other military expenditures in the course of all discussions and negotiations in extending guaranties, credits, or other forms of direct or indirect assistance to the Soviet Union.

* * * * * * *

1. Foreign Relations Authorization Act of 1972, as amended

Partial text of Public Law 92-352 [H.R. 14734], 86 Stat. 489, approved July 13, 1972; as amended by Public Law 93-126 [H.R. 7645], 87 Stat. 451, approved October 18, 1973

AN ACT To provide authorizations for certain agencies conducting the foreign relations of the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Foreign Relations Authorization Act of 1972".

* * * * * * *

TITLE V—GENERAL AND MISCELLANEOUS PROVISIONS

* * * * * * *

EXPRESSION OF INDIVIDUAL VIEWS TO CONGRESS

Sec. 502. Upon the request of a committee of either House of Congress, a joint committee of Congress, or a member of such committee, any officer or employee of[1] the Department of State, the United States Information Agency, the Agency for International Development, the United States Arms Control and Disarmament Agency, or any other department, agency, or independent establishment of the United States Government primarily concerned with matters relating to foreign countries or multilateral organizations, may express his views and opinions, and make recommendations he considers appropriate, if the request of the committee or member of the committee relates to a subject which is within the jurisdiction of that committee.

* * * * * * *

TITLE VI—STUDY COMMISSION RELATING TO FOREIGN POLICY

FINDINGS AND PURPOSE

Sec. 601. It is the purpose of this title to establish a study commission which will submit findings and recommendations to provide a more effective system for the formulation and implementation of the Nation's foreign policy.

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[1] Sec. 17 of Public Law 93-126 (87 Stat. 452), inserted the words "or employees of" in lieu of "appointed by the President, by and with the advice and consent of the Senate, in a position in".

COMMISSION ON THE ORGANIZATION OF THE GOVERNMENT FOR THE CONDUCT OF FOREIGN POLICY

Sec. 602. (a) To carry out the purpose of section 601 of this Act, there is established a Commission on the Organization of the Government for the Conduct of Foreign Policy (hereafter referred to in this title as the "Commission").

(b) The Commission shall be composed of the following twelve members:

(1) four members appointed by the President, two from the executive branch of the Government and two from private life;

(2) four members appointed by the President of the Senate, two from the Senate (one from each of the two major political parties) and two from private life; and

(3) four members appointed by the Speaker of the House of Representatives, two from the House of Representatives (one from each of the two major political parties) and two from private life.

(c) The Commission shall elect a Chairman and a Vice Chairman from among its members.

(d) Seven members of the Commission shall constitute a quorum. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

(e) Each member of the Commission who is not otherwise employed by the United States Government shall receive $145 a day (including traveltime) during which he is engaged in the actual performance of his duties as a member of the Commission. A member of the Commission who is an officer or employee of the United States Government shall serve without additional compensation. All members of the Commission shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

DUTIES OF THE COMMISSION

Sec. 603. (a) The Commission shall study and investigate the organization, methods of operation, and powers of all departments, agencies, independent establishments, and instrumentalities of the United States Government participating in the formulation and implementation of United States foreign policy and shall make recommendations which the Commission considers appropriate to provide improved governmental processes and programs in the formulation and implementation of such policy, including, but not limited to, recommendations with respect to—

(1) the reorganization of the departments, agencies, independent establishments, and instrumentalities of the executive branch participating in foreign policy matters;

(2) more effective arrangements between the executive branch and Congress, which will better enable each to carry out its constitutional responsibilities;

(3) improved procedures among departments, agencies, independent establishments, and instrumentalities of the United States Government to provide improved coordination and control with respect to the conduct of foreign policy;

(4) the abolition of services, activities, and functions not necessary to the efficient conduct of foreign policy; and

(5) other measures to promote peace, economy, efficiency, and improved administration of foreign policy.

(b) The Commission shall submit a comprehensive report to the President and Congress, not later than June 30, 1975,[2] containing the findings and recommendations of the Commission with respect to its study and investigation. Such recommendations may include proposed constitutional amendments, legislation, and administrative actions the Commission considers appropriate in carrying out its duties. The Commission shall cease to exist on the thirtieth day after the date on which it files the comprehensive report under this subsection.

POWERS OF THE COMMISSION

Sec. 604. (a) The Commission or, on the authorization of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out the provisions of this title, hold such hearings and sit and act at such times and places, administer such oaths, and require, by subpena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents as the Commission or such subcommittee or member may deem advisable. Subpenas may be issued under the signature of the Chairman of the Commission, of any such subcommittee, or any designated member, and may be served by any person designated by such Chairman or member. The provisions of sections 102 through 104 of the Revised Statutes of the United States (2 U.S.C. 192-194) shall apply in the case of any failure of any witness to comply with any subpena or to testify when summoned under authority of this section.

(b) The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality information, suggestions, estimates and statistics for the purposes of this title. Each such department, bureau, agency, board, commission, office, establishment, or instrumentality is authorized and directed, to the extent authorized by law, to furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the Chairman or Vice Chairman.

STAFF OF THE COMMISSION

Sec. 605. (a) The Commission shall have power to appoint and fix the compensation of such personnel as it deems advisable, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

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[2] Sec. 4 of Public Law 93-126 (87 Stat. 452), changed the date to June 30, 1975, from June 30, 1974.

(b) The Commission is authorized to procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate paid a person occupying a position at GS-18.

EXPENSES OF THE COMMISSION

Sec. 606. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

m. Department of State Appropriations

(1) Department of State Appropriations Act, 1989

Partial text of Public Law 100–459 [Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, 1989, H.R. 4782], 102 Stat. 2186, approved October 1, 1988

AN ACT Making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1989, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1989, and for other purposes, namely:

* * * * * * *

TITLE III—DEPARTMENT OF STATE

Administration of Foreign Affairs

SALARIES AND EXPENSES

Notwithstanding section 110 of Public Law 100–204, for necessary expenses of the Department of State and the Foreign Service, not otherwise provided for, including obligations of the United States abroad pursuant to treaties, international agreements, and binational contracts (including obligations assumed in Germany on or after June 5, 1945) and expenses authorized by section 9 of the Act of August 31, 1964, as amended (31 U.S.C. 3721), and section 2 of the State Department Basic Authorities Act of 1956, as amended (22 U.S.C. 2669); telecommunications; expenses necessary to provide maximum physical security in Government-owned and leased properties and vehicles abroad; representation to certain international organizations in which the United States participates pursuant to treaties, ratified by the Senate, conventions, or specific Acts of Congress; acquisition by exchange or purchase of passenger motor vehicles as authorized by 31 U.S.C. 1343, 40 U.S.C. 481(c) and 22 U.S.C. 2674, except that passenger motor vehicles with additional systems and equipment may be purchased without regard to any price limitation otherwise established by law as authorized by 31 U.S.C. 1343(c), $1,784,000,000; and in addition not to exceed $250,000 in registration fees collected pursuant to section 38 of the Arms Export Control Act, as amended, may be used in accordance with section 38(b)(3)(A) of such Act (section 1255(c) of Public Law 100–204).

REPRESENTATION ALLOWANCES

For representation allowances as authorized by section 905 of the Foreign Service Act of 1980, as amended (22 U.S.C. 4085), $4,590,000.

PROTECTION OF FOREIGN MISSIONS AND OFFICIALS

For expenses, not otherwise provided for, to enable the Secretary of State to provide for extraordinary protective services in accordance with the provisions of section 214 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4314), and to provide for the protection of foreign missions in accordance with the provisions of 3 U.S.C. 208, $9,100,000.

ACQUISITION AND MAINTENANCE OF BUILDINGS ABROAD

For necessary expenses for carrying out the Foreign Service Buildings Act of 1926, as amended (22 U.S.C. 292–300), $240,021,000, to remain available until expended as authorized by 22 U.S.C. 2696(c): *Provided,* That none of the funds appropriated in this paragraph shall be available for acquisition of furniture and furnishings and generators for other departments and agencies.

EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

For expenses necessary to enable the Secretary of State to meet unforeseen emergencies arising in the Diplomatic and Consular Service pursuant to the requirement of 31 U.S.C. 3526(e), $4,500,000, to remain available until expended as authorized by 22 U.S.C. 2696(c).

PAYMENT TO THE AMERICAN INSTITUTE IN TAIWAN

For necessary expenses to carry out the Taiwan Relations Act, Public Law 96–8 (93 Stat. 14), $10,890,000.

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For payment to the Foreign Service Retirement and Disability Fund, as authorized by law, $107,684,000.

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS [1]

Notwithstanding section 102(a)(1) through (11) of Public Law 100–204, for expenses not otherwise provided for, necessary to meet annual obligations of membership in international multilateral organizations, pursuant to treaties ratified by the Senate, conventions or specific Acts of Congress, $485,940,000: *Provided,* That none of the funds appropriated in this paragraph shall be available for a United States contribution to an international organization for the United States share of interest costs made known to the United States Government by such organization for loans incurred on or after October 1, 1984, through external borrowings.

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[1] 22 U.S.C. 269a note.

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For payments, not otherwise provided for, by the United States for expenses of the United Nations peacekeeping forces as authorized by law, $29,000,000.

INTERNATIONAL CONFERENCES AND CONTINGENCIES

For necessary expenses authorized by section 5 of the State Department Basic Authorities Act of 1956, contributions for the United States share of general expenses of international organizations and representation to such organizations as provided for by 22 U.S.C. 2656 and 2672 and personal services without regard to civil service and classification laws as authorized by 5 U.S.C. 5102, $6,000,000, to remain available until expended as authorized by 22 U.S.C. 287(e), of which not to exceed $200,000 may be expended for representation as authorized 22 U.S.C. 2269 and 4085.

INTERNATIONAL COMMISSIONS [1]

For necessary expenses, not otherwise provided for, to meet obligations of the United States arising under treaties ratified by the Senate, conventions or specific Acts of Congress, as follows:

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

For necessary expenses for the United States Section of the International Boundary and Water Commission, United States and Mexico, and to comply with laws applicable to the United States Section, as follows:

SALARIES AND EXPENSES

For salaries and expenses, not otherwise provided for, including preliminary surveys, operations and maintenance of the interceptor system to be constructed to intercept sewage flows from Tijuana and from selected canyon areas as currently planned, and the operation and maintenance upon completion of the proposed Environmental Protection Agency and Corps of Engineers pipeline and plant project to capture Tijuana sewage flows in the event of a major breakdown in Mexico's conveyance system, $10,261,000: *Provided,* That expenditures for the Rio Grande bank protection project shall be subject to the provisions and conditions contained in the appropriation for said project as provided by the Act approved April 25, 1945 (59 Stat. 89).

CONSTRUCTION

For detailed plan preparation and construction of authorized projects, including the Rio Grande Rectification Improvement project, to remain available until expended as authorized by 22 U.S.C. 2696(c), $3,166,000.

AMERICAN SECTIONS, INTERNATIONAL COMMISSIONS

For necessary expenses, not otherwise provided for, $4,316,000; for the International Joint Commission and the International

Boundary Commission, as authorized by treaties between the United States and Canada or Great Britain.

INTERNATIONAL FISHERIES COMMISSIONS

For necessary expenses for international fisheries commissions, not otherwise provided for, as authorized by law, $10,548,000: *Provided,* That the United States share of such expenses may be advanced to the respective commissions, pursuant to 31 U.S.C. 529.

OTHER

UNITED STATES BILATERAL SCIENCE AND TECHNOLOGY AGREEMENTS

For necessary expenses, not otherwise provided, for Bilateral Science and Technology Agreements, as authorized by section 105 of Public Law 100–204, $2,000,000, to remain available until expended as authorized by 22 U.S.C. 2696(c).

PAYMENT TO THE ASIA FOUNDATION

For a grant to the Asia Foundation as authorized by section 601 of Public Law 100–204, $13,700,000, to remain available until expended as authorized by 22 U.S.C. 2696(c).

SOVIET-EAST EUROPEAN RESEARCH AND TRAINING

For expenses, not otherwise provided for, to enable the Secretary of State to carry out the provisions of title VIII of Public Law 98–164, $4,600,000.

FISHERMEN'S GUARANTY FUND

For expenses necessary to carry out the provisions of section 7 of the Fishermen's Protective Act of 1967, as amended, $1,725,000, of which $900,000 is to be derived from the receipts collected pursuant to that Act, to remain available until expended.

GENERAL PROVISIONS—DEPARTMENT OF STATE

SEC. 301. Funds appropriated under this title shall be available, except as otherwise provided, for allowances and differentials as authorized by subchapter 59 of 5 U.S.C.; for services as authorized by 5 U.S.C. 3109; and hire of passenger transportation pursuant to 31 U.S.C. 1343(b).

SEC. 302.[2] The Secretary of State shall report to the appropriate Committees of the Congress on the obligation of funds provided for diplomatic security and related expenses every month.

SEC. 303.[3] * * *

SEC. 304.[4] * * *

(c) TRANSITION PROVISIONS.—

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[2] 22 U.S.C. 4851 note.

[3] Sec. 303 amended sec. 303 of the Department of State Appropriations Act, 1988, and provided an effective date for the amendments of October 1, 1988. For text, see page 204.

[4] Sec. 304 amended secs. 8 and 9 of the United Nations Participation Act of 1945 (Public Law 79 264), and provided an effective date for the amendments of July 1, 1989. For text, see page 965.

(1) [5] Provisions set forth in this section shall be effective July 1, 1989.

(2) In the event that taxes paid by an employee on the benefit provided under subsection (2) of section 9 exceed the contribution amount computed as a percentage of base salary under that subsection, the Department of State may reimburse the employee up to the amount of such differential for the period from the date of enactment of this Act through July 1, 1989.

Sec. 305. Notwithstanding section 130 of the Foreign Relations Authorization Act, Fiscal Years 1988-89 and section 414 of the Diplomatic Security Act and any other provisions of law, such funds as are authorized, or that may be authorized, under the Diplomatic Security Act or any other statute, and appropriated to the Department of State under this or any other Act, may be hereafter obligated or expended for site acquisition, development, and construction of two new diplomatic facilities in Israel, Jerusalem, or the West Bank, provided that each facility (a) equally preserves the ability of the United States to locate its Ambassador or its Consul General at that site, consistent with United State policy; (B) shall not be denominated as the United States Embassy or Consulate until after construction of both facilities has begun, and construction of one facility has been completed, or is near completion; and (C) unless security considerations require otherwise, commences operation simultaneously.

Sec. 306. (a) Findings.—The Congress finds that—

(1) The Senate in Public Law 99-399 and S. Res. 31 has twice called on the Secretary of State to review United States policy with respect to the continued recognition of the Soviet puppet regime in Afghanistan and continued United States diplomatic presence in Kabul to determine whether such recognition and presence is in the interest of the United States and the people of Afghanistan.

(2) The majority and minority leaders of the United States Senate in a letter dated June 15, 1988, called for the appointment of an Ambassador at Large on Afghanistan to coordinate United States policies and programs with the Afghan Resistance.

(3) The Under Secretary of State for Political Affairs, appearing before the Senate Foreign Relations Committee on June 23, 1988, acknowledged that the dangers to the security of American personnel in Kabul, Afghanistan, would be expected to grow in the months ahead.

(4) After more than eight years of warfare the Resistance continues to control eighty percent of the territory of Afghanistan and has been instrumental in delivering social services and humanitarian resources inside Afghanistan.

(5) The Administration has never responded in a comprehensive manner to the requests enumerated in paragraphs (1) and (2).

(b) It Is the Sense of the Congress That.—

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[5] 22 U.S.C. 287e-1 note.

(1) The Administration should intensify its political dialogue with the Afghan Resistance and interact positively with their political and economic institutions.

(2) The United States should actively seek first-hand information on military and political developments in Afghanistan from the Afghan Resistance and should not rely solely on other countries for such information.

(3) The President should confer diplomatic recognition at an appropriate time on an Afghan Government constituted by the Afghan Resistance that is broad based and genuinely representative of the Afghan people or a government that is directly elected by the Afghan people in a free and fair election.

(c)(1) There is established in the Department of State the position of special envoy to the Afghan Resistance who shall be appointed by the President.

(2) The special envoy shall hold the personal rank of Ambassador, and shall coordinate United States policies and programs with the Afghan Resistance.

(3) It is the sense of the Congress that not later than 30 days after the date of enactment of this Act, the President should exercise the authority under section 302(a)(2)(B) of the Foreign Service Act of 1980 to confer the rank of Ambassador on an individual who shall serve as the special envoy to the Afghan Resistance.

This title may be cited as the "Department of State Appropriations Act, 1989".

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TITLE VI—GENERAL PROVISIONS

SEC. 601. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 602. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 603. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 604. If any provision of this Act or the application of such provision to any person or circumstances shall be held invalid, the remainder of the Act and the application of such provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

* * * * * * *

SEC. 606. (a) None of the funds provided under this Act shall be available for obligation or expenditure through a reprogramming of funds which: (1) creates new programs; (2) eliminates a program, project, or activity; (3) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted; (4) relocates an office or employees; (5) reorganizes offices, programs, or activities; or (6) contracts out or privatizes any functions or activities presently performed by Federal employees; unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogrammings of funds.

(b) None of the funds provided under this Act shall be available for obligation or expenditure for activities, programs, or projects through a reprogramming of funds in excess of $250,000 or 10 per centum, whichever is less, that: (1) augments existing programs, projects, or activities; (2) reduces by 10 per centum funding for any existing program, project, or activity, or numbers of personnel by 10 per centum as approved by Congress; or (3) results from any general savings from a reduction in personnel which would result in a change in existing programs, activities, or projects as approved by Congress, unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

* * * * * * *

(2) Department of State Appropriations Act, 1988

Partial text of Public Law 100-202 [Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, 1988, Sec. 101(a) of the Continuing Appropriations Act, 1988; H.J. Res. 395], 101 Stat. 1329, approved December 22, 1987; as amended by Public Law 100-459 [Department of State Appropriations Act, 1989; H.R. 4782], 102 Stat. 2205, approved October 1, 1988

JOINT RESOLUTION Making continuing appropriations for the fiscal year 1988, and for other purposes.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

SECTION. 1.* * *

(a) * * *

(b) * * *

The following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1988, and for other purposes, namely:

SEC. 101. (a) Such amounts as may be necessary for programs, projects or activities provided for in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1988, at a rate of operations and to the extent and in the manner provided for, the provisions of such Act to be effective as if it had been enacted into law as the regular appropriations Act, as follows:

AN ACT Making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1988, and for other purposes.

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TITLE III—DEPARTMENT OF STATE

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GENERAL PROVISIONS—DEPARTMENT OF STATE

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SEC. 302.[1] The Secretary of State shall report to the appropriate Committees of the Congress on the obligation of funds provided for diplomatic security and related expenses every month beginning January 1, 1988.

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[1] This reporting requirement was restated in sec. 302 of the Department of State Appropriations Act, 1989 (Public Law 100-459, 102 Stat. 2207).

SEC. 303.[2] There is hereby appropriated, out of any money in the Treasury not otherwise appropriated, a total of $340,000 [3] for each fiscal year to carry out (in accordance with the respective authorization amounts) paragraph (2) of the first section of Public Law 74-170, section 2(2) of Public Law 84-689, section 2 of Public Law 86-42, section 2 of Public Law 86-420, and section 109(c) of the Department of State Authorization Act, Fiscal Years 1984 and 1985.[3] These funds may be disbursed to each delegation, pursuant to vouchers in accordance with the applicable provisions of law, at any time requested by the Chairman of the delegation after that fiscal year begins. Section 2 of Public Law 84-689 is amended by striking out "annually," and inserting in lieu thereof "annually (1)", by striking out "$50,000, $25,000" and inserting in lieu thereof "(2) $100,000, $50,000", and by striking out "and $25,000" and inserting in lieu thereof "and $50,000".

SEC. 304. The Secretary of State shall not permit the Soviet Union to occupy the new chancery building at its new embassy complex in Washington, D.C. or any other new facility in the Washington, D.C. metropolitan area, until a new chancery building is ready for occupancy for the United States embassy in Moscow: *Provided,* That none of the funds appropriated in this Act or any prior Act may be obligated for the new office building in Moscow except for engineering and technical studies prior to October 1, 1988.

SEC. 305.[4] The following sections of H.R. 1777 (the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989) are waived during Fiscal Years 1988 and 1989 in the event that H.R. 1777 is enacted into law: Sec. 122, Sec. 151 and Sec. 204.

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[2] Sec. 303 provided appropriations for various parliamentary conferences and interparliamentary unions in which the United States participates. For text of legislation cited here, see vol. IV, sec. N.

[3] Sec. 303 of the Department of State Appropriations Act, 1989 (Public Law 100-459, 102 Stat. 2207), struck out "$290,000" and inserted "$340,000", and added the reference to the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98-164).

[4] H.R. 1777 was enacted into law as Public Law 100-204, on December 22, 1987. For text, see page 11.

n. State Department Basic Authorities Act of 1956

Note.—Legislation setting forth original authority for the Department of State (July 27, 1789, c. 4, Sec. 1, 1 Stat. 28; Sept. 15, 1789, c. 14, Sec. 1, 1 Stat. 68) states, "The Secretary of State shall perform such duties as shall from time to time be enjoined on or entrusted to him by the President relative to correspondences, commissions, or instructions to or with public ministers or consuls from the United States, or to negotiations with public ministers from foreign states or princes, or to memorials or other applications from foreign public ministers or other foreigners, or to such other matters respecting foreign affairs as the President of the United States shall assign to the department and he shall conduct the business of the department in such manner as the President shall direct." (22 U.S.C. 2656)

Public Law 84-885 [S. 2569], 70 Stat. 890, approved August 1, 1956; as amended by Public Law 86-707 [H.R. 7758], 74 Stat. 800, approved September 6, 1960; Public Law 86-624 [H.R. 11602], 74 Stat. 411, approved July 12, 1960; Public Law 86-723 [S. 2633], 74 Stat. 847, approved September 8, 1960; Public Law 87-565 [S. 2996], 76 Stat. 263, approved August 1, 1962; Public Law 88-205 [H.R. 7885], 77 Stat. 391, approved December 16, 1963; Public Law 92-226 [S. 2819], 86 Stat. 20, approved February 7, 1972; Public Law 92-352 [H.R. 14734], 86 Stat. 489, approved July 13, 1972; Public Law 93-475 [S. 3473], 88 Stat. 1439, approved October 26, 1974; Public Law 94-141 [S. 1517], 89 Stat. 756, approved November 29, 1975; Public Law 94-350 [S. 3168], 90 Stat. 823, approved July 12, 1976; Public Law 95-45 [H.R. 5040], 91 Stat. 221, approved June 15, 1977; Public Law 95-105 [H.R. 6689], 91 Stat. 844, approved August 17, 1977; Public Law 95-426 [H.R. 12598], 92 Stat. 963, approved October 7, 1978; Public Law 96-60 [H.R. 3363], 93 Stat. 395, approved August 15, 1979; Public Law 96-465 [Foreign Service Act of 1980, H.R. 6790], 94 Stat. 2071 at 2153 and 2160, approved October 17, 1980; Public Law 97-241 [S. 1193], 96 Stat. 273, approved August 24, 1982; Public Law 98-164 [Department of State Authorization Act, Fiscal Years 1984 and 1985; H.R. 2195], 97 Stat. 1017, approved November 22, 1983; Public Law 98-533 [1984 Act to Combat International Terrorism, H.R. 6311], 98 Stat. 2706, approved October 19, 1984; Public Law 99-93 [H.R. 2068], 99 Stat. 405, approved August 16, 1985; Public Law 99-399 [Omnibus Diplomatic Security and Antiterrorism Act, H.R. 4151], 100 Stat. 871 approved August 27, 1986; Public Law 99-569 [Intelligence Authorization Act for Fiscal Year 1987, H.R. 4759], 100 Stat. 3190, approved October 27, 1986; Public Law 100-204 [Foreign Relations Authorization Act, Fiscal Years 1988 and 1989; H.R. 1777], 101 Stat. 1331, approved December 22, 1987; and by Public Law 100-690 [International Narcotics Control Act of 1988, H.R. 5210], 102 Stat. 4181 at 4287, approved November 18, 1988

AN ACT To provide certain basic authority for the Department of State.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—BASIC AUTHORITIES GENERALLY

Section 1. The Secretary of State is authorized to establish, maintain, and operate passport and dispatch agencies.

Sec. 2.[1] The Secretary of State, may use funds appropriated or otherwise available to the Secretary to [2]

(a) provide for printing and binding outside the States of the United States [3] and the District of Columbia without regard to section 11 of the Act of March 1, 1919 (44 U.S.C. 111);

(b) [4] for the purpose of promoting and maintaining friendly relations with foreign countries through the prompt settlement of certain claims, settle and pay any meritorious claim against the United States which is presented by a government of a foreign country for damage to or loss of real or personal property of, or personal injury to or death of, any national of such foreign country: *Provided,* That such claim is not cognizable under any other statute or international agreement of the United States and can be settled for not more than $15,000 or the foreign currency equivalent thereof.

(c) [5] employ individuals or organizations, by contract, for services abroad and individuals employed by contract to perform such services shall not be virtue of such employment be considered to be employees of the United States Government; for purposes of any law administered by the Office of Personnel Management (except that the Secretary may determine the applicability to such individuals of subsection (f) and of any other law administered by the Secretary concerning the employment of such individuals abroad).

(d) provide for official functions and courtesies;

(e) purchase uniforms;

(f) pay tort claims, in the manner authorized in the first paragraph of section 2672, as amended, of title 28 of the United States Code when such claims arise in foreign countries in connection with Department of State operations abroad;

(g) [6] obtain services as authorized by section 3109 of title 5, United States Code, at a rate not to exceed the maximum rate payable for GS-18 under section 5332 of such title 5; and

(h) [6] directly procure goods and services in the United States or abroad, solely for use by United States Foreign Service posts abroad when the Secretary of State, in accordance with guidelines established in consultation with the Administrator of General Services, determines that use of the Federal Supply Service or otherwise applicable Federal goods and services acquisition authority would not meet emergency overseas security requirements determined necessary by the Secretary, taking into account overseas delivery, installation, maintenance, or replacement requirements, except that the authority granted by this paragraph shall cease to be effective when the amendment made by section 2711 of the Competition in Contracting Act of 1984 takes effect and thereafter procurement by the Secretary of State for the purposes described in this paragraph shall be in accordance with section 303(c)(2) of the Federal Property and Administrative Services Act of 1949.

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[1] 22 U.S.C. 2669.

[2] Sec. 114 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99-93, 99 Stat. 405) substituted the words "may use funds appropriated or otherwise available to the Secretary to". for the words "when funds are appropriated therefor, may—".

[3] This reference to the "States of the United States" was substituted in lieu of a reference to the "continental United States" by sec. 2 of Public Law 86-624 (74 Stat. 411).

[4] Subsec. (b) was added by sec. 402 of Public Law 87-565 (76 Stat. 263, 22 U.S.C. 2669), the Foreign Assistance Act of 1962. Former sec. 2(b) was repealed by sec. 511(a)(2) of Public Law 86-707 (74 Stat. 800), the Overseas Differentials and Allowances Act.

[5] Sec. 303(a)(1) of Public Law 98-533 (98 Stat. 2710) amended and restated para. (c) up to the semicolon. Subsequently, sec. 118 of Public Law 99-93 (99 Stat. 405) added the text of par. (c) which follows the semicolon. It formerly read as follows: "(c) employ aliens, by contract, for services abroad;".

[6] Sec. 303(a)(2) of Public Law 98-533 (98 Stat.) added pars. (g) and (h).

Sec. 3.[7] The Secretary of State is authorized to—

(a) obtain insurance on official motor vehicles operated by the Department of State in foreign countries, and pay the expenses incident thereto;

(b) rent tie lines and teletype equipment;

(c) provide ice and drinking water for United States Embassies and Consulates abroad;

(d) pay excise taxes on negotiable instruments which are negotiated by the Department of State abroad;

(e)[8] pay the actual expenses of preparing and transporting to their former homes the remains of persons, not United States Government employees, who may die away from their homes while participating in international educational exchange activities under the jurisdiction of the Department of State;

(f) pay expenses incident to the relief, protection, and burial of American seamen, and alien seamen from United States vessels in foreign countries and in the United States, Territories and possessions;

(g) pay the expenses incurred in the acknowledgment of the services of officers and crews of foreign vessels and aircraft in rescuing American seamen, airmen, or citizens from shipwreck or other catastrophe abroad or at sea;

(h) rent or lease, for periods of less than ten years, such offices, buildings, grounds, and living quarters for the use of the Foreign Service abroad as he may deem necessary, and make payments therefor in advance;

(i) maintain, improve, and repair properties rented or leased pursuant to authority contained in subsection (h) of this section and furnish fuel, water, and utilities for such properties;

(j)[9] provide emergency medical attention and dietary supplements, and other emergency assistance, for United States citizens incarcerated abroad or destitute United States citizens abroad[10] who are unable to obtain such services otherwise, such assistance to be provided on a reimbursable basis to the extent feasible; and

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[7] 22 U.S.C. 2670.

[8] Authority granted to the Secretary of State under subsec. (e) was abolished by sec. 9(a)(7) of Reorganization Plan No. 2 of 1977 (establishing the ICA).

[9] Subsec. (j) was added by sec. 2 of Public Law 95-45 (91 Stat. 221).

[10] The words "or destitute United States citizens abroad" were added by sec. 108(a) of Public Law 95-426 (92 Stat. 966). Sec. 108(b) of the same Act provided that this amendment would take effect on October 1, 1978.

(k) [11] subject to the availability of appropriated funds, obtain insurance on the historic and artistic articles of furniture, fixtures, and decorative objects which may from time-to-time be within the responsibility of the Fine Arts Committee of the Department of State for the Diplomatic Rooms of the Department.

Sec. 4.[12] (a) [13] The Secretary of State is authorized to—

(1) subject to subsection (b), make expenditures, from such amounts as may be specifically appropriated therefor, for unforeseen emergencies arising in the diplomatic and consular service and, to the extent authorized in appropriation Acts, funds expended for such purposes may be accounted for in accordance with section 291 of the Revised Statutes (31 U.S.C. 107); and

(2) delegate to subordinate officials the authority vested in him by section 291 of the Revised Statutes pertaining to certification of expenditures.

(b) [13] (1) Expenditures described under subsection (a) shall be made only for such activities as—

(A) serve to further the realization of foreign policy objectives;

(B) are a matter of urgency to implement;

(C) with respect to activities the expenditures for which are required to be certified under subsection (a), require confidentiality in the best interests of the conduct of foreign policy by the United States; and

(D) are not otherwise prohibited by law.

(2) Activities described in paragraph (1) include—

(A) the evacuation of United States Government employees and their dependents and private United States citizens when their lives are endangered by war, civil unrest, or natural disaster;

(B) loans made to destitute citizens of the United States who are outside the United States and made to provide for the return to the United states of its citizens;

(C) visits by foreign chiefs of state or heads of government to the United States;

(D) travel of delegations representing the President at any inauguration or funeral of a foreign dignitary;

(E) travel of the President, the Vice President, or a Member of Congress to a foreign country, including advance arrangements, escort, and official entertainment;

(F) travel of the Secretary of State within the United States and outside the United States, including official entertainment;

(G) official representational functions of the Secretary of State and other principal officers of the Department of State;

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[11] Subsec. (k) was added by sec. 126(b) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204, 101 Stat. 1342).

[12] 22 U.S.C. 2671.

[13] Sec. 122 of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98-164, 97 Stat. 1023) redesignated existing subsecs. (a) and (b) as pars. (1) and (2), redesignated the existing text as subsec. (a), added the reference to subsec. (b) in par. (1) of subsec. (a), and added new subsecs. (b), (c), and (d).

(H) official functions outside the United States the expenses for which are not otherwise covered by amounts appropriated for representation allowances;

(I) investigations and apprehension of groups or individuals involved in fraudulent issuance of United States passports and visas; and

(J) gifts of nominal value given by the President, Vice President, or Secretary of State to a foreign dignitary.

(c)[13] The Inspector General of the Department of State and the Foreign Service shall conduct an annual confidential audit of the Department of State's emergency expenditures and prepare and transmit to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate an annual report indicating whether such expenditures were made in accordance with subsections (a) and (b) of this section.

(d)[13] With regard to the repatriations loan program, the Secretary of State shall—

(1) require the borrower to provide a verifiable address and social security number at the time of application;

(2) require a written loan agreement which includes a repayment schedule;

(3) bar passports from being issued or renewed for those individuals who are in default;

(4) refer any loan more than one year past due to the Department of Justice for litigation;

(5) obtain addresses from the Internal Revenue Service for all delinquent accounts which have social security numbers;

(6) report defaults to commercial credit bureaus as provided in section 3711(f) of title 31, United States Code;

(7) be permitted to use any funds necessary to contract with commercial collection agencies, notwithstanding section 3718(c) of title 31, United States Code;

(8) charge interest on all loans as of May 1, 1983, with the rate of interest to be that set forth in section 3717(a) of title 31, United States Code;

(9) assess charges, in addition to the interest provided for in paragraph (8), to cover the costs of processing and handling delinquent claims, as of May 1, 1983;

(10) assess a penalty charge, in addition to the interest provided for in paragraphs (8) and (9), of 6 percent per year for failure to pay any portion of a debt more than ninety days past due; and

(11) implement the interest and penalty provisions in paragraphs (8), (9), and (10) for all current and future loans, regardless of whether the debts were incurred before or after May 1, 1983.

Sec. 5.[14] The Secretary of State is authorized to—

(a) provide for participation by the United States in international activities which arise from time to time in the conduct of foreign affairs for which provision has not been made by the terms of any treaty, convention, or special Act of Congress:

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[14] 22 U.S.C. 2672.

Provided, That this subsection shall not be construed as granting authority to accept membership for the United States in any international organization, or to participate in the activities of any international organization for more than one year without approval by the Congress; and

(b) pay the expenses of participation in activities in which the United States participates by authority of subsection (a) of this section, including, but not limited to the following:

(1) Employment of aliens;

(2) Travel expenses without regard to the Standardized Government Travel Regulations and to the rates of per diem allowances in lieu of subsistence expenses under the Travel Expense Act of 1949, as amended (5 U.S.C. 5701-5708).[15]

(3) Travel expenses of persons serving without compensation in an advisory capacity while away from their homes or regular places of business not in excess of those authorized for regular officers and employees traveling in connection with said international activities; and

(4) Rental of quarters by contract or otherwise.

Sec. 6.[16] The provisions of section 8 of the United Nations Participation Act of 1945, as amended (22 U.S.C. 287e), and regulations thereunder, applicable to expenses incurred pursuant to that Act, may be applicable to the obligation and expenditure of funds in connection with United States participation in the International Civil Aviation Organization.

Sec. 7.[17] The exchange allowances or proceeds derived from the exchange or sale of passenger motor vehicles in possession of the Foreign Service abroad, in accordance with section 201(c) of the Act of June 30, 1949 (40 U.S.C. 481(c)), shall be available without fiscal year limitation for replacement of an equal number of such vehicles.

Sec. 8.[18] The Secretary of State may allocate or transfer to any department, agency, or independent establishment of the United States Government (with the consent of the head of such department, agency, or establishment) any funds appropriated to the Department of State, for direct expenditure by such department, agency, or independent establishment for the purposes for which the funds are appropriated in accordance with authority granted in this Act or under authority governing the activities of such department, agency, or independent establishment.

Sec. 9.[19] The Secretary of State is authorized to enter into contracts in foreign countries involving expenditures from funds appropriated or otherwise made available to the Department of State, without regard to the provisions of section 3741 of the Revised Statutes (41 U.S.C. 22): *Provided,* That nothing in this section shall be construed to waive the provisions of section 431 of title 18 of the United States Code.

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[15] Formerly 5 U.S.C. 835-842, until codified by Public Law 89-554 (80 Stat. 378, approved September 6, 1966).

[16] 22 U.S.C. 2673.

[17] 22 U.S.C. 2674.

[18] 22 U.S.C. 2675. Sec. 121 of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98-164, 97 Stat. 1023) amended and restated sec. 8. It formerly read as follows:

"Sec. 8. The Secretary of State may, when authorized in an appropriation or other law, transfer to any department, agency, or independent establishment of the Government, with the consent of the head thereof, any funds appropriated to the Department of State, for direct expenditure by such department, agency, or independent establishment for the purposes for which the funds are appropriated."

[19] 22 U.S.C. 2676.

Sec. 10.[20] Appropriated funds made available to the Department of State for expenses in connection with travel of personnel outside the continental United States, including travel of dependents and transportation of personal effects, household goods, or automobiles of such personnel shall be available for such expenses when any part of such travel or transportation begins in one fiscal year pursuant to travel orders issued in that year, notwithstanding the fact that such travel or transportation may not be completed during that same fiscal year.

Sec. 11.[21] * * * [Repealed—1986]

Sec. 12.[22] The Secretary of State, with the approval of the bureau of the Budget,[23] shall prescribe the maximum rates per diem in lieu of subsistence (or of similar allowances therefor) payable while away from their own countries to foreign participants in any exchange of persons program, or in any program of furnishing technical information and assistance, under the jurisdiction of any Government agency, and said rates may be fixed without regard to any provision of law in limitation thereof.

Sec. 13.[24] (a)[25] There is hereby established a working capital fund for the Department of State, which shall be available without fiscal year limitations, for expenses (including those authorized by the Foreign Service Act of 1980)[26] and equipment, necessary for maintenance and operation in the city of Washington and elsewhere of (1) central reproduction, editorial, data processing, audio-visual, library and administrative support services; (2) central services for supplies and equipment (including repairs) (3) such other administrative services as the Secretary, with the approval of the Bureau of the Budget,[23] determines may be performed more advantageously and more economically as central services; (4)[27] medical and health care services; and (5)[28] services and supplies to carry out title II of this Act. The capital of the fund shall consist of the amount of the fair and reasonable value of such supply inventories, equipment, and other assets and inventories on order, pertaining to the services to be carried on by the fund, as the Secretary may transfer to the fund, less the related liabilities and unpaid obligations, together with any appropriations made for the purpose of providing capital.[29] The fund shall be reimbursed, or credited with advance payments, from applicable appropriations and funds of the Department of State, other Federal agencies, and other sources authorized by law, for supplies and services at rates which will approximate the expense of operations, including accrual of annual leave and depreciation of plant and equipment of the fund. The fund shall also be credited with other receipts from sale or exchange of property or in payment for loss or damage to property held by the fund. There shall be transferred into the Treasury as miscellaneous receipts, as of the close of each fiscal year, earnings which the Secretary determines to be excess to the needs of the fund.

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[20] 22 U.S.C. 2677.

[21] Sec. 11 (formerly 22 U.S.C. 2678) was repealed by Public Law 99-550 (100 Stat. 3067). It formerly read:"Notwithstanding section 1344(a) of title 31, United States Code, the Deputy Secretary of State is authorized to use Government-owned vehicles for security purposes for travel between his or her residence and places where official functions are performed."

[22] 22 U.S.C. 2679.

[23] Reorganization Plan No. 2 of 1970 redesignated the Bureau of the Budget as the Office of Management and Budget.

[24] 22 U.S.C. 2684. Sec. 13 was added by sec. 405 of Public Law 88-205 (77 Stat. 391) and further amended by sec. 407(c) of Public Law 92-226 which deleted the last sentence of sec. 13(a) which formerly read as follows: "There is hereby authorized to be appropriated such amounts as may be necessary to provide capital for the fund." The original sec. 13, as repealed Sept. 6, 1960, by sec. 511(a)(2) of Public Law 86-707 (74 Stat. 800), read as follows: "Allowances granted under sec. 901(1) of the Foreign Service Act of 1946 (22 U.S.C. 1311(1)), may include water, in addition to the utilities specified."

[25] Subsection designation "(a)" and subsec. (b) were added by sec. 109(a) of Public Law 95-426 (92 Stat. 966). Such amendment became effective October 1, 1978.

[26] The reference to the Foreign Service Act of 1980 was substituted in lieu of a reference to the Foreign Service Act of 1946 by sec. 2201(b) of Public Law 96-465 (94 Stat. 2157).

[27] Sec. 109(a) of Public Law 95-426 (92 Stat. 966) added clause (4), effective October 1, 1978.

[28] Sec. 203(a) of Public Law 97-241 (96 Stat. 290) added clause (5).

(b) [25] The current value of supplies returned to the working capital fund by a post, activity, or agency may be charged to the fund. The proceeds thereof shall, if otherwise authorized, be credited to current applicable appropriations and shall remain available for expenditures for the same purposes for which those appropriations are available. Credits may not be made to appropriations under this subsection as the result of capitalization of inventories.

Sec. 14.[30] (a) Any contract for the procurement of property or services, or both, for the Department of State or the Foreign Service which is funded on the basis of annual appropriations may nevertheless be made for periods not in excess of 5 years when—

(1) appropriations are available and adequate for payment for the first fiscal year and for all potential cancellation costs; and

(2) the Secretary of State determines that—

(A) the need of the Government for the property or service being acquired over the period of the contract is reasonably firm and continuing;

(B) such a contract will serve the best interests of the United States by encouraging effective competition or promoting economies in performance and operation; and

(C) such a method of contracting will not inhibit small business participation.

(b) In the event that funds are not made available for the continuation of such a contract into a subsequent fiscal year, the contract shall be cancelled and any cancellation costs incurred shall be paid from appropriations originally available for the performance of the contract, appropriations currently available for the acquisition of similar property or services and not otherwise obligated, or appropriations made for such cancellation payments.

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[29] Sec. 109(a) of Public Law 95-426 (92 Stat. 966) struck out a sentence which previously appeared at this point. It formerly read as follows: "Not to exceed $750,000 in net assets shall be transferred to the fund for purposes of providing capital." Such amendment became effective on October 1, 1978.

[30] 22 U.S.C. 2679a. Sec. 14 was added by sec. 121 of Public Law 97-241 (96 Stat. 280). A prior sec. 14, part of the original Act, was repealed by Public Law 86-707 (74 Stat. 798). Subsequently, a new sec. 14 was added by sec. 10 of Public Law 93-475 (88 Stat. 1441) and amended by Public Law 93-475, Public Law 94-161, and Public Law 95-105. It was repealed by sec. 2205(10) of the Foreign Service Act of 1980 (Public Law 96-465, 94 Stat. 2160). Such section formerly concerned the payment of a gratuity to the surviving dependents of a Foreign Service employee who died as the result of injuries sustained in the performance of duty outside the United States. This gratuity is now covered at Sec. 413 of the Foreign Service Act of 1980.

Sec. 15.[31] (a)(1) Notwithstanding any provision of law enacted before the date of enactment of the State Department/USIA Authorization Act, Fiscal Year 1975,[32] no money appropriated to the Department of State under any law shall be available for obligation or expenditure with respect to any fiscal year commencing on or after July 1, 1972—

(A) unless the appropriation thereof has been authorized by law enacted on or after February 7, 1972; or

(B) in excess of an amount prescribed by law enacted on or after such date.

(2) To the extent that legislation enacted after the making of an appropriation to the Department of State authorizes the obligation or expenditure thereof, the limitation contained in paragraph (1) shall have no effect.

(3) The provisions of this section—

(A) shall not be superseded except by a provision of law enacted after February 7, 1972, which specifically repeals, modifies, or supersedes the provisions of this section; and

(B) shall not apply to, or affect in any manner, permanent appropriations, trust funds, and other similar accounts administered by the Department as authorized by law.

(b) The Department of State shall keep the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives fully and currently informed with respect to all activities and responsibilities within the jurisdiction of these committees. Any Federal department, agency, or independent establishment shall furnish any information requested by either such committee relating to any such activity or responsibility.

Sec. 16.[33] The first section of the Act of August 16, 1941 (42 U.S.C. 1651; commonly known as the "Defense Base Act") shall not apply with respect to such contracts as the Secretary of State may determine which are contracts with persons employed to perform work for the Department of State or the Foreign Service on an intermittent basis for not more than 90 days in a calendar year.

Sec. 17.[34] The Secretary of State is authorized to use appropriated funds for unusual expenses similar to those authorized by section 5913 of title 5, United States Code, incident to the operation and maintenance of the living quarters of the United States Representative to the Organization of American States.

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[31] 22 U.S.C. 2680. Sec. 15 was amended by sec. 407(b) of Public Law 92-226 (86 Stat. 35) and further amended by sec. 102 of Public Law 92-352 (86 Stat. 490). Subsec. (a) was further amended by sec. 11 of Public Law 93-475 (88 Stat. 1442). It formerly read as follows: "Notwithstanding any other provision of law, no appropriation shall be made to the Department of State under any law for any fiscal year commencing on or after July 1, 1972, unless previously authorized by legislation hereafter enacted by the Congress. The provisions of this subsection shall not apply to, or affect in any manner, permanent appropriations, trust funds, and other similar accounts administered by the Department as authorized by law."

[32] For partial text of Public Law 93-475 (88 Stat. 1439), approved October 26, 1974, see page 187.

[33] 22 U.S.C. 2680a. Sec. 16 was added by sec. 122 of Public Law 97-241 (96 Stat. 281). A prior sec. 16, as added by Public Law 93-475 and amended by Public Law 94-426, was repealed by sec. 2205(10) of the Foreign Service Act of 1980 (Public Law 96-465, 94 Stat. 2160). Sec. 16 formerly described the duties and responsibilities of a United States chief of mission. A similar provision is now included at Sec. 207 of the Foreign Service Act of 1980.

[34] 22 U.S.C. 2687. Sec. 17 was added by sec. 101(c) of Public Law 94-141.

Sec. 18.[35] It is the sense of the Congress that the position of United States ambassador to a foreign country should be accorded to men and women possessing clearly demonstrated competence to perform ambassadorial duties. No individual should be accorded the position of United States ambassador to a foreign country primarily because of financial contributions to political campaigns.

Sec. 19.[36] Each fiscal year (beginning with fiscal year 1977), the Secretary of State may use [37] funds appropriated for the American Sections, International Joint Commission, United States and Canada, for representation expenses and official entertainment within the United States for such American Sections.

Sec. 20.[38] Any expenditure for any gift for any person of any foreign country which involves any funds made available to meet unforeseen emergencies arising in the Diplomatic and Consular Service shall be audited by the Controller General and reports thereon made to the Congress to such extent and at such times as he may determine necessary. The representatives of the General Accounting Office shall have access to all books, accounts, records, reports, files, and all other papers, things, or property pertaining to such expenditure and necessary to facilitate the audit.

Sec. 21.[39] (a) For purposes of achieving greater United States compliance with the provisions of the Final Act of the Conference on Security and Cooperation in Europe (signed at Helsinki on August 1, 1975) and for purposes of encouraging other signatory countries to comply with those provisions, the Secretary of State should, within 30 days of receiving an application for a nonimmigrant visa by any alien who is excludable from the United States by reason of membership in or affiliation with a proscribed organization but who is otherwise admissible to the United States, recommend that the Attorney General grant the approval necessary for the issuance of a visa to such alien, unless the Secretary determines that the admission of such alien would be contrary to the security interests of the United States and so certifies to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate. Nothing in this section may be construed as authorizing or requiring the admission to the United States of any alien who is excludable for reasons other than membership in or affiliation with a proscribed organization.[40]

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[35] 22 U.S.C. 2688. Sec. 18 was added by sec. 104 of Public Law 94-141.

[36] 22 U.S.C. 2689. Sec. 19 was added by sec. 104 of the Foreign Relations Authorization Act, Fiscal Year 1977 (Public Law 94-350).

[37] The words "not to exceed $1,500 of the" which previously appeared at this point, were struck by sec. 110(a) of Public Law 95-426 (92 Stat. 967). Such amendment became effective October 1, 1978.

[38] 22 U.S.C. 2690. Sec. 20 was added by sec. 116 of the Foreign Relations Authorization Act, Fiscal Year 1977 (Public Law 94-350).

[39] 22 U.S.C. 2691. Sec. 21 was added by sec. 112 of the Foreign Relations Authorization Act, Fiscal Year 1978 (91 Stat. 848). Sec. 109 of the Department of State Authorization Act, Fiscal Years 1980 and 1981 (Public Law 96-60, 93 Stat. 397), added the subsection designation "(a)" and new subsecs. (b), (c), and (d).

[40] This sentence was added by sec. 119 of Public Law 95-426 (92 Stat. 970). See also sec. 126 of Public Law 95-426 (92 Stat. 971) which stated that it shall be the general policy of the United States to impose travel restrictions within the United States on foreign citizens only in cases where their government imposes restrictions on American citizens traveling in their country (page 152).

(b) This section does not apply to representatives of purported labor organizations in countries where such organizations are in fact instruments of a totalitarian state.

(c) This section does not apply with respect to any alien who is a member, officer, official, representative, or spokesman of the Palestine Liberation Organization.

(d) The Secretary of State may refuse to recommend a waiver for aliens from signatory countries which are not in substantial compliance with the provisions of the Helsinki Final Act, particularly the human rights and humanitarian affairs provisions.

Sec. 22.[41] (a) The Secretary of State may compensate, pursuant to regulations which he shall prescribe, for the cost of participating in any proceeding or on any advisory committee or delegation of the Department of State, any organization or person—

(1) who is representing an interest which would not otherwise be adequately represented and whose participation is necessary for a fair determination of the issues taken as a whole; and

(2) who would otherwise be unable to participate in such proceeding or on such committee or delegation because such organization or person cannot afford to pay the costs of such participation.

(b) Of the funds appropriated for salaries and expenses for the Department of State, not to exceed $250,000 shall be available in any fiscal year for compensation under this section to such organizations and persons.

Sec. 23.[42] Whenever the head of any Federal agency performing any foreign affairs functions (including, but not limited to, the Department of State, the International Communication Agency, the Agency for International Development, and the Arms Control and Disarmament Agency) determines that administrative services performed in common by the Department of State and one or more other such agencies may be performed more advantageously and more economically on a consolidated basis, the Secretary of State and the heads of the other agencies concerned may, subject to the approval of the Director of the Office of Management and Budget, conclude an agreement which provides for the transfer to and consolidation within the Department or within one of the other agencies concerned of so much of the functions, personnel, property, records, and funds of the Department and of the other agencies concerned as may be necessary to enable the performance of those administrative services on a consolidated basis for the benefit of all agencies concerned. Agreements for consolidation of administrative services under this section shall provide for reimbursement or advances of funds from the agency receiving the service to the agency performing the service in amounts which will approximate the expense of providing administrative services for the serviced agency.

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[41] 22 U.S.C. 2692. Sec. 22 was added by sec. 113(a) of the Foreign Relations Authorization Act, Fiscal Year 1978 (91 Stat. 848). This section became effective on October 1, 1977.

[42] 22 U.S.C. 2695. Sec. 23 was added by sec. 111(a) of Public Law 95-426 (92 Stat. 967). Sec. 23 became effective October 1, 1978.

Sec. 24.[43] (a) There are authorized to be appropriated for the Department of State, in addition to amounts otherwise authorized to be appropriated for the Department, such sums as may be necessary for any fiscal year for increases in salary, pay, retirement, and other employee benefits authorized by law.

(b)(1)[44] In order to maintain the levels of program activity for the Department of State provided for each fiscal year by the annual authorizing legislation, there are authorized to be appropriated for the Department of State such sums as may be necessary to offset adverse fluctuations in foreign currency exchange rates, or overseas wage and price changes, which occur after November 30 of the earlier of—

(A) the calendar year which ended during the fiscal year preceding such fiscal year, or

(B) the calendar year which preceded the calendar year during which the authorization of appropriations for such fiscal year was enacted.

(2) In carrying out this subsection, there may be established a Buying Power Maintenance account.

(3) In order to eliminate substantial gains to the approved levels of overseas operations for the Department of State, the Secretary of State shall transfer to the Buying Power Maintenance account such amounts in any appropriation account under the heading "Administration of Foreign Affairs" as the Secretary determines are excessive to the needs of the approved level of operations under that appropriation account because of fluctuations in foreign currency exchange rates or changes in overseas wages and prices.

(4) In order to offset adverse fluctuations in foreign currency exchange rates or overseas wage and price changes, the Secretary of State may transfer from the Buying Power Maintenance account to any appropriation account under the heading "Administration of Foreign Affairs" such amounts as the Secretary determines are necessary to maintain the approved level of operations under that appropriation account.

(5) Funds transferred by the Secretary of State from the Buying Power Maintenance account to another account shall be merged with and be available for the same purpose, and for the same time period, as the funds in that other account. Funds transferred by the Secretary from another account to the Buying Power Maintenance account shall be merged with the funds in the Buying Power Maintenance account and shall be available for the purposes of that account until expended.

(6) Any restriction contained in an appropriation Act or other provision of law limiting the amounts available for the Department of State that may be obligated or expended shall be deemed to be adjusted to the extent necessary to offset the net effect of fluctuations in foreign currency exchange rates or overseas wage and price changes in order to maintain approved levels.

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[43] 22 U.S.C. 2696. Sec. 24 was added by sec. 105 of the Department of State Authorization Act, Fiscal Years 1980 and 1981 (Public Law 96-60, 93 Stat. 396).

[44] Subsec. (b) was amended and restated by sec. 112(a) of Public Law 97-241 (96 Stat. 277).

(c) Amounts authorized to be appropriated for a fiscal year for the Department of State or to the Secretary of State are authorized to be made available until expended.

(d) Amounts authorized to be appropriated for the Department of State for a fiscal year for the "Administration of Foreign Affairs" account, the "International Organizations and Conferences" account, the "International Commissions" account, or the "Migration and Refugee Assistance" account may be appropriated for that fiscal year for any other such account, except that the total amount appropriated for a fiscal year for any such account may not exceed by more than 10 percent the amount specifically authorized to be appropriated for that account for that fiscal year.

Sec. 25.[45] (a) The Secretary of State may accept on behalf of the United States gifts made unconditionally by will or otherwise for the benefit of the Department of State (including the Foreign Service) or for the carrying out of any of its functions. Conditional gifts may be so accepted at the discretion of the Secretary, and the principal of and income from any such conditional gift shall be held, invested, reinvested, and used in accordance with its conditions, except that no gift shall be accepted which is conditioned upon any expenditure which will not be met by the gift or the income from the gift unless such expenditure has been approved by Act of Congress.

(b) Any unconditional gift of money accepted under section (a), the income from any gift property held under subsection (c) or (d) (except income made available for expenditure under subsection (d)(2)), the net proceeds from the liquidation of gift property under subsection (c) or (d), and the proceeds of insurance on any gift property which are not used for its restoration, shall be deposited in the Treasury of the United States. Such funds are hereby appropriated and shall be held in trust by the Secretary of the Treasury for the benefit of the Department of State (including the Foreign Service). The Secretary of the Treasury may invest and reinvest such funds in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. Such funds and the income from such investments shall be available for expenditure in the operation of the Department of State (including the Foreign Service) and the performance of its functions, subject to the same examination and audit as is provided for appropriations made for the Foreign Service by the Congress, but shall not be expended for representational purposes at United States missions except in accordance with the conditions that apply to appropriated funds.[46]

(c) The evidences of any unconditional gift of intangible personal property (other than money) accepted under subsection (a), shall be deposited with the Secretary of the Treasury who may hold or liquidate them, except that they shall be liquidated upon the request of the Secretary of State whenever necessary to meet payments required in the operation of the Department of State (including the Foreign Service) or the performance of its functions.

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[45] 22 U.S.C. 2697. Sec. 25 was added by sec. 2201 of the Foreign Service Act of 1980 (Public Law 96-465, 94 Stat. 2153).

[46] The phrase in the last sentence, "but shall not be expended for representational purposes at United States missions except in accordance with the conditions that apply to appropriated funds" was added by sec. 125 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204, 101 Stat. 1341).

(d)(1) The Secretary of State shall hold any real property or any tangible personal property accepted unconditionally pursuant to subsection (a) and shall either use such property for the operation of the Department of State (including the Foreign Service) and the performance of its functions or lease or hire such property, except that any such property not required for the operation of the Department of State (including the Foreign Service) or the performance of its functions may be liquidated by the Secretary of State whenever in the judgment of the Secretary of State the purposes of the gift will be served thereby. The Secretary of State may insure any property held under this subsection. Except as provided in paragraph (2), the Secretary shall deposit the income from any property held under this subsection with the Secretary of the Treasury as provided in subsection (b).

(2) The income from any real property or tangible personal property held under this subsection shall be available for expenditure at the discretion of the Secretary of State for the maintenance, preservation, or repair and insurance of such property and any proceeds from insurance may be used to restore the property insured.

(e) For the purpose of Federal income, estate, and gift taxes, any gift, devise, or bequest accepted under this section shall be deemed to be a gift, devise, or bequest to and for the use of the United States.

(f) The authorities available to the Secretary of State under this section with respect to the Department of State shall be available to the Director of the International Communication Agency and the Director of the United States International Development Cooperation Agency with respect to their respective agencies.

Sec. 26.[47] (a) The Secretary of State may, without regard to section 3106 of title 5, United States Code, authorize a principal officer of the Foreign Service to procure legal services whenever such services are required for the protection of the interests of the Government or to enable a member of the Service to carry on the member's work efficiently.

(b) The authority available to the Secretary of State under this section shall be available to the Director of the International Communication Agency and the Director of the United States International Development Cooperation Agency with respect to their respective agencies.

Sec. 27.[48] (a) In order to expand employment opportunities for family members of the United States Government personnel assigned abroad, the Secretary of State shall seek to conclude such bilateral and multilateral agreements as will facilitate the employment of such family members in foreign economies.

(b) Any member of a family of a member of the Foreign Service may accept gainful employment in a foreign country unless such employment—

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[47] 22 U.S.C. 2698. Sec. 26 was added by sec. 2201 of the Foreign Service Act of 1980 (Public Law 96-465, 94 Stat. 2153).

[48] 22 U.S.C. 2699. Sec. 27 was added by sec. 2201 of the Foreign Service Act of 1980 (Public Law 96-465, 94 Stat. 2153).

(1) would violate any law of such country or of the United States; or

(2) could, as certified in writing by the United States chief of mission to such country, damage the interests of the United States.

Sec. 28.[49] The Secretary of State may authorize the principal officer of a Foreign Service post to provide for the use of Government owned or leased vehicles located at that post for transportation of United States Government employees and their families when public transportation is unsafe or not available or when such use is advantageous to the Government.

Sec. 29.[50] Whenever the Secretary of State determines that educational facilities are not available, or that existing educational facilities are inadequate, to meet the needs of children of United States citizens stationed outside the United States who are engaged in carrying out Government activities, the Secretary may, in such manner as he deems appropriate and under such regulations as he may prescribe, establish, operate, and maintain primary schools, and school dormitories and related educational facilities for primary and secondary schools, outside the United States, make grants of funds for such purposes, or otherwise provide for such educational facilities. The authorities of the Foreign Service Buildings Act, 1926, and of paragraphs (h) and (i) of section 3 of this Act, may be utilized by the Secretary in providing assistance for educational facilities. Such assistance may include hiring, transporting, and payment of teachers and other necessary personnel.

Sec. 30.[51] (a) The remedy—

(1) against the United States provided by sections 1346(b) and 2672 of title 28, United States Code, or

(2) through proceedings for compensation or other benefits from the United States as provided by any other law, where the availability of such benefits precludes a remedy under such sections,

for damages for personal injury, including death, allegedly arising from malpractice or negligence of a physician, dentist, nurse, pharmacist or paramedical (including medical and dental assistants and technicians, nursing assistants, and therapists) or other supporting personnel of the Department of State in furnishing medical care or related services, including the conducting of clinical studies or investigations, while in the exercise of his or her duties in or for the Department of State or any other Federal department, agency, or instrumentality shall be exclusive of any other civil action or proceeding by reason of the same subject matter against such physician, dentist, nurse, pharmacist, or paramedical or other supporting personnel (or his or her estate) whose act or omission gave rise to such claim.

(b) The United States Government shall defend any civil action or proceeding brought in any court against any person referred to in subsection (a) of this section (or his or her estate) for any such damage or injury. Any such person against whom such civil action or proceeding is brought shall deliver, within such time after date of service or knowledge of service as may be determined by the Attorney General, all process served upon him or her or an attested true copy thereof to whomever was designated by the Secretary to receive such papers. Such person shall promptly furnish copies of the pleading and process therein to the United States attorney for the district embracing the place wherein the proceeding is brought, to the Attorney General, and to the Secretary.

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[49] 22 U.S.C. 2700. Sec. 28 was added by sec. 2201 of the Foreign Service Act of 1980 (Public Law 96-465, 94 Stat. 2153).

[50] 22 U.S.C. 2701. Sec. 29 was added by sec. 2201 of the Foreign Service Act of 1980 (Public Law 96-465, 94 Stat. 2154).

[51] 22 U.S.C. 2702. Sec. 30 was added by sec. 2201 of the Foreign Service Act of 1980 (Public Law 96-465, 94 Stat. 2155).

(c) Upon a certification by the Attorney General that the defendant was acting within the scope of his or her employment in or for the Department of State or any other Federal department, agency, or instrumentality at the time of the incident out of which the suit arose, any such civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States of the district and division embracing the place wherein it is pending and the proceeding deemed a tort action brought against the United States under the provisions of title 28, United States Code, and all references thereto. Should a United States district court determine on a hearing on a motion to remand held before a trial on the merits that the case so removed is one in which a remedy by suit within the meaning of subsection (a) of this section is not available against the United States, the case shall be remanded to the State court except that where such remedy is precluded because of the availability of a remedy through proceedings for compensation or other benefits from the United States as provided by any other law, the case shall be dismissed, but in that event, the running of any limitation of time for commencing, or filing an application or claim in, such proceedings for compensation or other benefits shall be deemed to have been suspended during the pendency of the civil action or proceeding under this section.

(d) The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677 of title 28, the United States Code, and with the same effect.

(e) For purposes of this section, the provisions of section 2680(h) of title 28, United States Code, shall not apply to any tort enumerated therein arising out of negligence in the furnishing of medical care or related services, including the conducting of clinical studies or investigations.

(f) The Secretary may, to the extent he deems appropriate, hold harmless or provide liability insurance for any person to whom the immunity provisions of subsection (a) of this section apply, for damages for personal injury, including death, negligently caused by any such person while acting within the scope of his or her office of employment and as a result of the furnishing of medical care or related services, including the conducting of clinical studies or investigations, if such person is assigned to a foreign area or detailed for service with other than a Federal agency or institution, or if the circumstances are such as are likely to preclude the remedies of third persons against the United States provided by sections

1346(b) and 2672 of title 28, United States Code, for such damage or injury.

(g) For purposes of this section, any medical care or related service covered by this section and performed abroad by a covered person at the direction or with the approval of the United States chief of mission or other principal representative of the United States in the area shall be deemed to be within the scope of employment of the individual performing the service.

Sec. 31.[52] (a) The Secretary of State may authorize and assist in the establishment, maintenance, and operation by civilian officers and employees of the Government of non-Government-operated services and facilities at posts abroad, including the furnishing of space, utilities, and properties owned or leased by the Government for use by its diplomatic, consular, and other missions and posts abroad. The provisions of the Foreign Service Buildings Act, 1926 (22 U.S.C. 292–300) and section 13 of this Act may be utilized by the Secretary in providing such assistance.

(b) The Secretary may establish and maintain emergency commissary or mess services in places abroad where, in the judgment of the Secretary, such services are necessary temporarily to insure the effective and efficient performance of official duties and responsibilities. Reimbursements incident to the maintenance and operation of commissary or mess service under this subsection shall be at not less than cost as determined by the Secretary and shall be used as working funds, except that an amount equal to the amount expended for such services shall be covered into the Treasury as miscellaneous receipts.

(c) Services and facilities established under this section shall be made available, insofar as practicable, to officers and employees of all agencies and their dependents who are stationed in the locality abroad. Such services and facilities shall not be established in localities where another agency operates similar services or facilities unless the Secretary determines that additional services or facilities are necessary. Other agencies shall to the extent practicable avoid duplicating the facilities and services provided or assisted by the Secretary under this section.

(d) Charges at any post abroad for a service or facility provided, authorized or assisted under this section shall be at the same rate for all civilian personnel of the Government serviced thereby, and all charges for supplies furnished to such a service or facility abroad by any agency shall be at the same rate as that charged by the furnishing agency to its comparable civilian services and facilities.

Sec. 32.[53] The Secretary of State may pay, without regard to section 5702 of title 5, United States Code, subsistence expenses of (1) special agents [54] of the Department of State who are on authorized

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[52] 22 U.S.C. 2684. Sec. 31 was added by sec. 2201 of the Foreign Service Act of 1980 (Public Law 96–465, 94 Stat. 2156).

[53] 22 U.S.C. 2704. Sec. 32 was added by sec. 2201 of the Foreign Service Act of 1980 (Public Law 96–465, 94 Stat. 2157).

[54] Sec. 125(b) of Public Law 99–93 (99 Stat. 405) added the words "special agents" in lieu of "security officers". Sec. 125(c) of the same Act repealed section 4 of the Act entitled "An Act to provide authority to protect heads of foreign states and other officials" approved August 27, 1964 (2 U.S.C. 2667), and the Act entitled "An Act to authorize certain officers and employees of

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protective missions, and (2) members of the Foreign Service and employees of the Department who are required to spend extraordinary amounts of time in travel status. The authorities available to the Secretary of State under this section with respect to the Department of State shall be available to the Director of the United States Information Agency and the Director of the United States International Development Cooperation Agency with respect to their respective agencies, except that the authority of clause (2) shall be available with respect to those agencies only in the case of members of the Foreign Service and employees of the agency who are performing security-related functions abroad.[55]

Sec. 33.[56] The following documents shall have the same force and effect as proof of United States citizenship as certificates of naturalization or of citizenship issued by the Attorney General or by a court having naturalization jurisdiction:

(1) A passport, during its period of validity (if such period is the maximum period authorized by law), issued by the Secretary of State to a citizen of the United States.

(2) The report, designated as a "Report of Birth Abroad of a Citizen of the United States", issued by a consular officer to document a citizen born abroad.

Sec. 34.[57] (a) Unless the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate are notified fifteen days in advance of the proposed reprogramming, funds appropriated for the Department of State shall not be available for obligation or expenditure through any reprogramming of funds—

(1) which creates new programs;

(2) which eliminates a program, project, or activity;

(3) which increases funds or personnel by any means for any project or activity for which funds have been denied or restricted by the Congress;

(4) which relocates an office or employees;

(5) which reorganizes offices, programs, or activities;

(6) which involves contracting out functions which had been performed by Federal employees; or

(7) which involves a reprogramming in excess of $250,000 or 10 percent, whichever is less and which (A) augments existing programs, projects, or activities, (B) reduces by 10 percent or more the funding for any existing program, project, activity, or personnel approved by the Congress, or (C) results from any general savings from a reduction in personnel which would result in a change in existing programs, activities, or projects approved by the Congress.

(b)[57] Funds appropriated for the Department of State may not be available for obligation or expenditure through any reprogram-

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the Department of State and the Foreign Service to carry firearms" approved June 28, 1955 (22 U.S.C. 2666).

[55] Sec. 303(c) of Public Law 98–533 (98 Stat. 2711) added this sentence.

[56] 22 U.S.C. 2705. Sec. 33 was added by sec. 117 of Public Law 97–241 (96 Stat. 279).

[57] 22 U.S.C. 2706. Sec. 34(a) was originally added as sec. 34 by sec. 123 of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98–164, 97 Stat. 1025). Sec. 121 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100–204, 101 Stat. 1339) redesignated it as subsec. (a) and added a new subsec. (b).

ming described in subsection (a) during the period which is the last 15 days in which such funds are available unless notice of such reprogramming is made before such period.

Sec. 35.[58] (a) The Secretary of State shall assign responsibility for international communications and information policy matters within the Department of State to an appropriate Under Secretary of State (hereafter in this section referred to as the "Under Secretary").

(b) The Secretary of State shall establish, within the Department of State, an Office of the Coordinator for International Communications and Information Policy, headed by a Coordinator who shall be responsible to the Under Secretary. The Coordinator shall be appointed by the President, by and with the advice and consent of the Senate, and shall have the rank of ambassador. The Coordinator shall be compensated at the annual rate of pay for positions authorized by section 5315 of title 5, United States Code.[59] The Coordinator shall be responsible, on behalf of the Under Secretary, for formulation, coordination, and oversight of international communications policy assigned to the Under Secretary. On behalf of the Under Secretary, the Coordinator shall—

(1) maintain continuing liaison with the bureaus and offices of the Department of State and with other executive branch agencies concerned with international communications and information policy;

(2) in accordance with such authority as may be delegated by the President pursuant to Executive order, chair such agency and interagency meetings as may be necessary to coordinate actions on pending issues to ensure proper policy coordination;

(3) in accordance with such authority as may be delegated by the President pursuant to Executive order, supervise and coordinate the activities of the Senior Interagency Group on International Communications and Information Policy;

(4) coordinate the activities of, and assist as appropriate, interagency working level task forces and committees concerned with specific aspects of international communications and information policy;

(5) maintain liaison with the members and staffs of committees of the Congress concerned with international communications and information policy and provide testimony before such committees;

(6) maintain appropriate liaison with representatives of the private sector to keep informed of their interests and problems, meet with them, and provide such assistance as may be needed to ensure that matters of concern to the private sector are promptly considered by the Department or other executive branch agencies; and

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[58] 22 U.S.C. 2706. Sec. 35 was added by sec. 124 of the Department of State Administration Act, Fiscal Years 1984 and 1985 (Public Law 98-164, 97 Stat. 1025).

[59] This sentence was added by sec. 173(a)(1) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204, 101 Stat. 1360). Sec. 173(b) of the same Act made it effective 30 days after enactment and sec. 173(c) stated that any new spending authority (as defined in section 401(c) of the Congressional Budget Act of 1974) it provided would be effective for any fiscal year only to the extent or in such amounts as are provided in advance in appropriation Acts.

(7) assist in arranging meetings of such public sector advisory groups as may be established to advise the Department of State and other executive branch agencies in connection with international communications and information policy issues.

Sec. 36.[60] (a) The Secretary of State may pay a reward to any individual who furnishes information—

(1) leading to the arrest or conviction in any country, of any individual for the commission of an act of international terrorism, or

(2) leading to the arrest or conviction, in any country, of any individual for conspiring or attempting to commit an act of international terrorism, or

(3) leading to the prevention, frustration, or favorable resolution of an act of international terrorism.

if the act of international terrorism is against a United States person or United States property and is primarily outside the territorial jurisdiction of the United States.

(b)[61] (1) The Secretary of State, upon the request of a chief of mission and with the concurrence of the Attorney General, may pay a reward to any individual who furnishes information leading to—

(A) the arrest or conviction in any country of any individual for committing, primarily outside the territorial jurisdiction of the United States, any narcotics-related offense if that offense involves or is a significant part of conduct that involves—

(i) a violation of United States drug laws which occurs primarily outside the territorial jurisdiction of the United States and which is such that the individual would be a major violator of such laws; or

(ii) the killing or kidnapping outside the territorial jurisdiction of the United States of—

(I) any officer, employee, or contract employee of the United States Government while such individual is engaged in official duties, or on account of that individual's official duties, in connection with the enforcement of United States drug laws or the implementing of United States drug control objectives; or

(II) a member of the immediate family of any such individual on account of that individual's official duties in connection with the enforcement of United States drug laws or the implementation of United States drug control objectives; or

(iii) an attempt or conspiracy to do any of the acts described in clause (i) or (ii); or

(B) the prevention or frustration of an act described in subparagraph (A).

(2) The purpose of the rewards under this subsection is to assist narcotics law enforcement in the effective arrest and prosecution of major narcotics traffickers and, wherever appropriate, to offer re-

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[60] 22 U.S.C. 2708. Sec. 102 of Public Law 98-533 (98 Stat. 2708) added sec. 36.

[61] Subsec. (b) was added by sec. 502(a)(2) of Public Law 99-399 (100 Stat 869). Consequently, subsections (b) through (f) were redesignated as subsections (c) through (g) and conforming technical amendments were made in subsections (d) and (f).

wards in connection with the killing of, or the attempt to kill, any United States officer or employee, in connection with the performance of narcotics control duties by such officer or employee, or any member of the family of such officer or employee. To ensure that the rewards program authorized by this subsection, especially paragraph (1)(A)(i), does not duplicate or interfere with the payment of informants or the purchase of evidence or information, as authorized to the Department of Justice, the offering, administration, and payment of rewards under this subsection, including procedures for—

(A) identifying individuals, organizations, and offenses with respect to which rewards will be offered,

(B) the publication of rewards,

(C) offering of joint rewards with foreign governments,

(D) the receipt and analysis of data,

(E) the payment and the approval of payment, and

(F) the recommendations of rewards by chiefs of mission to the Secretary of State and the Attorney General,

shall be governed by procedures approved by the Secretary of State and the Attorney General.".

(c) [61] A reward under this section may not exceed $500,000. A reward of $100,000 or more may not be made without the approval of the President or the Secretary of State personally.

(d) [61] Before making a reward under subsection (a) in a matter over which there is Federal criminal jurisdiction, the Secretary of State shall advise and consult with the Attorney General.

(e) [61] Any reward granted under this section shall be certified for payment by the Secretary of State. If the Secretary determines that the identity of the recipient of a reward or of the members of the recipient's immediate family must be protected, the Secretary may take such measures in connection with the payment of the reward as he deems necessary to effect such protection.

(f) [61] An officer or employee of any governmental entity who, while in the performance of his or her official duties, furnishes information described in subsection (a) or (b) shall not be eligible for a reward under this section.

(g) There are authorized to be appropriated, without fiscal year limitation, $5,000,000 for use in paying rewards under this section, up to $2,000,000 of which may be used for rewards for information described in subsection (b)(1). In addition to the amount authorized to be appropriated by the preceding sentence, there are authorized to be appropriated, without fiscal year limitation, $5,000,000 for "Administration of Foreign Affairs" for use in paying rewards for information described in subsection (b)(1).[62] Additional funds to pay rewards under this section shall be authorized to be appropriated in the annual authorizing legislation for the Department of State.

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[62] Sec. 4602 of the International Narcotics Control Act of 1988 (Public Law 100-690, 102 Stat. 4287) amended this sentence. It formerly read as follows:

"In addition to the amount authorized by the preceding sentence, there are authorized to be appropriated $10,000,000 for fiscal year 1987 for 'Administration of Foreign Affairs' for use in paying rewards under this section, up to $5,000,000 of which may be used for rewards for information described in subsection (b)(1)."

Sec. 139 of the Continuing Appropriations Act, 1985 (Public Law 98-473, 98 Stat. 1973), provided $1,000,000 to pay rewards for information concerning terrorist acts.

(h)[63] Not later than 30 days after paying any reward under this section, the Secretary of State shall submit a report to the Congress with respect to that reward. The report, which may be submitted on a classified basis if necessary, shall specify the amount of the reward paid, to whom the reward was paid, and the acts with respect to which the reward was paid, and shall discuss the significance of the information for which the reward was paid in dealing with those acts.

(i)[63] As used in this section—

(1) the term "United States drug laws" means the laws of the United States for the prevention and control of illicit traffic in controlled substances (as such term is defined for purposes of the Controlled Substances Act); and

(2) the term "member of the immediate family" includes—

(A) a spouse, parent, brother, sister, or child of the individual;

(B) a person to whom the individual stands in loco parentis; and

(C) any other person living in the individual's household and related to the individual by blood or marriage.

SPECIAL AGENTS

Sec. 37.[64] (a) GENERAL AUTHORITY.—Under such regulations as the Secretary of State may prescribe, special agents of the Department of State and the Foreign Service may—

(1) conduct investigations concerning illegal passport or visa issuance or use;

(2) For the purpose of conducting such investigation—

(A) obtain and execute search and arrest warrants, and

(B) obtain and serve subpoenas and summonses issued under the authority of the United States;

(3) protect and perform protective functions directly related to maintaining the security and safety of—

(A) heads of a foreign state, official representatives of a foreign government, and other distinguished visitors to the United States, while the United States;

(B) the Secretary of State, Deputy Secretary of State, and official representatives of the United States Government, in the United States or abroad;

(C) members of the immediate family of persons described in subparagraph (A) or (B); and

(D) foreign missions (as defined in section 202(a)(4) of this Act) and international organizations (as defined in section 209(b) of this Act), within the United States;

(4) if designated by the Secretary and qualified, under regulations approved by the Attorney General, for the use of firearms, carry firearms for the purpose of performing the duties authorized by this section; and

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[63] Subsecs. (h) and (i) were added by sec. 502(d) of Public Law 99-399 (100 Stat. 870).

[64] Sec. 125(a) of Public Law 99-93 (99 Stat. 405) inserted this text as a new sec. 37 and redesignated the previous sec. 37 as sec. 38.

(5) arrest without warrant any person for a violation of section 111, 112, 351, 911, 970, 1001, 1028, 1541, 1542, 1543, 1544, 1545, or 1546 of title 18, United States Code—

(A) in the case of a felony violation, if the special agent has reasonable grounds to believe that such person—

(i) has committed or is committing such violation; and

(ii) is in or is fleeing from the immediate area of such violation; and

(B) in the case of a felony or misdemeanor violation, if the violation is committed in the presence of the special agent.

(b) AGREEMENT WITH ATTORNEY GENERAL AND FIREARMS REGULATIONS.—

(1) AGREEMENT WITH ATTORNEY GENERAL.—The authority conferred by paragraphs (1), (2), (4), and (5) of subsection (a) shall be exercised subject to an agreement with the Attorney General and shall not be construed to affect the investigative authority of any other Federal law enforcement agency.

(2) FIREARMS REGULATIONS.—The Secretary of State shall prescribe regulations, which shall be approved by the Attorney General, with respect to the carrying and use of firearms by special agents under this section.

(c) SECRET SERVICE NOT AFFECTED.—Nothing in subsection (a)(3) shall be construed to preclude or limit in any way the authority of the United States Secret Service to provide protective services pursuant to section 202 of title 3, United States Code, or section 3056 of title 18, United States Code, at a level commensurate with protective requirements as determined by the United States Secret Service. The Secretary of State, the Attorney General, and the Secretary of the Treasury shall enter into an interagency agreement with respect to their law enforcement functions.

(d) TRANSMISSION OF REGULATIONS TO CONGRESS.—The Secretary of State shall transmit the regulations prescribed under this section to the Committee on Foreign Affairs and the Committee on the Judiciary of the House of Representatives and the Committee on Foreign Relations of the Senate not less than 20 days before the date on which such regulations take effect.

EXPENSES RELATING TO PARTICIPATION IN ARBITRATIONS OF CERTAIN DISPUTES

Sec. 38.[65] (a) INTERNATIONAL AGREEMENTS.—The Secretary of State may use funds available to the Secretary for the expenses of United States participation in arbitrations and other proceedings for the peaceful resolution of disputes under treaties or other international agreements.

(b) CONTRACTS ABROAD.—The Secretary of State may use funds available to the Secretary for the expenses of United States participation in arbitrations arising under contracts authorized by law for the performance of services or acquisition of property, real or personal, abroad.

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[65] 22 U.S.C. 2710. This sec. was added by sec. 128 of Public Law 99–93 (99 Stat. 405).

SEC. 39.[66] COUNTERTERRORISM PROTECTION FUND

(a) AUTHORITY.—The Secretary of State may reimburse domestic and foreign persons, agencies, or governments for the protection of judges or other persons who provide assistance or information relating to terrorist incidents primarily outside the territorial jurisdiction of the United States. Before making a payment under this section in a matter over which there is Federal criminal jurisdiction, the Secretary shall advise and consult with the Attorney General.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of State for "Administration of Foreign Affairs" $1,000,000 for fiscal year 1986 and $1,000,000 for fiscal year 1987 for use in reimbursing persons, agencies, or governments under this section.

(c) DESIGNATION OF FUND.—Amounts made available under this section may be referred to as the "Counterterrorism Protection Fund".

SEC. 40.[67] AUTHORITY TO CONTROL CERTAIN TERRORISM-RELATED SERVICES

(a) AUTHORITY.—The Secretary of State may, by regulation, impose controls on the provisions of the services described in subsection (b) if the Secretary determines that provision of such services would aid and abet international terrorism.

(b) SERVICES SUBJECT TO CONTROL.—The services subject to control under subsection (a) are the following:

(1) Serving in or with the security forces of a designated foreign government.

(2) Providing training or other technical services having a direct military, law enforcement, or intelligence application, to or for the security forces of a designated foreign government.

Any regulations issued to impose controls on services described in paragraph (2) shall list the specific types of training and other services subject to the controls.

(c) PERSONS SUBJECT OF CONTROLS.—These services may be controlled under subsection (a) when they are provided within the United States by any individual or entity and when they are provided anywhere in the world by a United States person.

(d) LICENSES.—In carrying out subsection (a), the Secretary of State may require licenses, which may be revoked, suspended, or amended, without prior notice, whenever such action is deemed to be advisable.

(e) DEFINITIONS.—

(1) DESIGNATED FOREIGN GOVERNMENT.—As used in this section, the term "designated foreign government' means a foreign government that the Secretary of State has determined, for purposes of section 6(j)(1) of the Export Administration Act of 1979, has repeatedly provided support for acts of international terrorism.

(2) SECURITY FORCES.—As used in this section, the term "security forces" means any military or paramilitary forces, any police or other law enforcement agency (including any police

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[66] 22 U.S.C. 2711. Sec. 39 was added by sec. 504(2) of Public Law 99-399 (100 Stat. 871).

[67] 22 U.S.C. 2712. Sec. 40 was added by sec. 506(2) of Public Law 99-399 (100 Stat. 872).

or other law enforcement agency at the regional or local level), and any intelligence agency of a foreign government.

(3) UNITED STATES.—As used in this section, the term "United States" includes any State, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and any territory or possession of the United States.

(4) UNITED STATES PERSON.—As used in this section, the term "United States person" means any United States national, any permanent resident alien, and any sole proprietorship, partnership, company, association, or corporation organized under the laws of or having its principal place of business within the United States.

(f) VIOLATIONS.—

(1) PENALTIES.—Whoever willfully violates any regulation issued under this section shall be fined not more than $100,000 or five times the total compensation received for the conduct which constitutes the violation, whichever is greater, or imprisoned for not more than ten years, or both, for each such offense.

(2) INVESTIGATIONS.—The Attorney General and the Secretary of the Treasury shall have authority to investigate violations of regulations issued under this section.

(g) CONGRESSIONAL OVERSIGHT.—

(1) REVIEW OF REGULATIONS.—Not less than 30 days before issuing any regulations under this section (including any amendment thereto), the Secretary of State shall transmit the proposed regulations to the Congress.

(2) REPORTS.—Not less than once every six months, the Secretary of State shall report to the Congress concerning the number and character of licenses granted and denied during the previous reporting period, and such other information as the Secretary may find to be relevant to the accomplishment of the objectives of this section.

(h) RELATIONSHIP TO OTHER LAWS.—The authority granted by this section is in addition to the authorities granted by any other provision of law.

SEC. 41.[68] PROTECTION OF HISTORIC AND ARTISTIC FURNISHINGS OF RECEPTION AREAS OF THE DEPARTMENT OF STATE BUILDING.

(a) IN GENERAL.—The Secretary of State shall administer the historic and artistic articles of furniture, fixtures, and decorative objects of the reception areas of the Department of State by such means and measures as conform to the purposes of the reception areas, which include conserving those articles, fixtures, and objects and providing for their enjoyment in such manner and by such means as will leave them for the use of the American people. Nothing shall be done under this subsection which conflicts with the administration of the Department of State or with the use of the reception areas for official purposes of the United States Government.

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[68] 22 U.S.C. 2713. Sec. 41 was added by sec. 126(a) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204, 101 Stat. 1341).

(b) **Disposition of Historic and Artistic Items.**—

(1) **Items covered.**—Articles of furniture, fixtures, and decorative objects of the reception areas (and similar articles, fixtures, and objects acquired by the Secretary of State), when declared by the Secretary of State to be of historic or artistic interest, shall thereafter be considered to be the property of the Secretary in his or her official capacity and shall be subject to disposition solely in accordance with this subsection.

(2) **Sale or trade.**—Whenever the Secretary of State determines that—

(A) any item covered by paragraph (1) is no longer needed for use or display in the reception areas, or

(B) in order to upgrade the reception areas, a better use of that article would be its sale or exchange,

the Secretary may, with the advice and concurrence of the Director of the National Gallery of Art, sell the item at fair market value or trade it, without regard to the requirements of the Federal Property and Administrative Services Act of 1949. The proceeds of any such sale may be credited to the unconditional gift account of the Department of State, and items obtained in trade shall be the property of the Secretary of State under this subsection.

(3) **Smithsonian institution.**—The Secretary of State may also lend items covered by paragraph (1), when not needed for use or display in the reception areas, to the Smithsonian Institution or a similar institution for care, repair, study, storage, or exhibition.

(c) **Definition.**—For purposes of this section, the term "reception areas" means the areas of the Department of State Building, located at 2201 C Street, Northwest, Washington, District of Columbia, known as the Diplomatic Reception Rooms (eighth floor), the Secretary of State's offices (seventh floor), the Deputy Secretary of State's offices (seventh floor), and the seventh floor reception area.

SEC. 42.[69] DENIAL OF PASSPORTS TO CERTAIN CONVICTED DRUG TRAFFICKERS

(a) **Ineligibility for Passport.**—

(1) **In general.**—A passport may not be issued to an individual who is convicted of an offense described in subsection (b) during the period described in subsection (c) if the individual used a passport or otherwise crossed an international border in committing the offense.

(2) **Passport revocation.**—The Secretary of State shall revoke a passport previously issued to an individual who is ineligible to receive a passport under paragraph (1).

(b) **Drug Law Offenses.**—

(1) **Felonies.**—Subsection (a) applies with respect to any individual convicted of a Federal drug offense, or a State drug offense, if the offense is a felony.

(2) **Certain misdemeanors.**—Subsection (a) also applies with respect to an individual convicted of a Federal drug offense, or

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[69] Sec. 4603 of the International Narcotics Control Act of 1988 (Public Law 100-690, 102 Stat. 4287) added sec. 42.

a State drug offense, if the offense is misdemeanor, but only if the Secretary of State determines that subsection (a) should apply with respect to that individual on account of that offense. This paragraph does not apply to an individual's first conviction for a misdemeanor which involves only possession of a controlled substance.

(c) PERIOD OF INELIGIBILITY.—Subsection (a) applies during the period that the individual—

(1) is imprisoned, or is legally required to be imprisoned, as the result of the conviction for the offense described in subsection (b); or

(2) is on parole or other supervised release after having been imprisoned as the result of that conviction.

(d) EMERGENCY AND HUMANITARIAN EXCEPTIONS.—Notwithstanding subsection (a), the Secretary of State may issue a passport, in emergency circumstances or for humanitarian reasons, to an individual with respect to whom that subsection applies.

(e) DEFINITIONS.—As used in this section—

(1) the term "controlled substance" has the same meaning as is provided in section 102 of the Controlled Substances Act (21 U.S.C. 802);

(2) the term "Federal drug offense" means a violation of—

(A) the Controlled Substances Act (21 U.S.C. 801 et seq.) or the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.);

(B) any other Federal law involving controlled substances; or

(C) subchapter II of chapter 53 of title 31, United States Code (commonly referred to as the "Bank Secrecy Act"), or section 1956 or section 1957 of title 18, United States Code (commonly referred to as the "Money Laundering Act"), if the Secretary of State determines that the violation is related to illicit production of or trafficking in a controlled substance;

(3) the term "felony" means a criminal offense punishable by death or imprisonment for more than one year;

(4) the term "imprisoned" means an individual is confined in or otherwise restricted to a jail-type institution, a half-way house, a treatment facility, or another institution, on a full or part-time basis, pursuant to the sentence imposed as the result of a conviction;

(5) the term "misdemeanor" means a criminal offense other than a felony;

(6) the term "State drug offense" means a violation of State law involving the manufacture, distribution, or possession of a controlled substance; and

(7) the term "State law" means the law of a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, or a territory or possession of the United States.

SEC. 43.[70] This Act may be cited as the State Department Basic Authorities Act of 1956.

TITLE II—AUTHORITIES RELATING TO THE REGULATION OF FOREIGN MISSIONS [71]

DECLARATION OF FINDINGS AND POLICY

Sec. 201.[72] (a) The Congress finds that the operation in the United States of foreign missions and public international organizations and the official missions to such organizations, including the permissible scope of their activities and the location and size of their facilities, is a proper subject for the exercise of Federal jurisdiction.

(b) The Congress declares that it is the policy of the United States to support the secure and efficient operation of United States missions abroad, to facilitate the secure and efficient operation in the United States of foreign missions and public international organizations and the official missions to such organizations, and to assist in obtaining appropriate benefits, privileges, and immunities for those missions and organizations and to require their observance of corresponding obligations in accordance with international law.

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[70] 22 U.S.C. 2651 note. This section was originally added as sec. 33 by sec. 2201 of the Foreign Service Act of 1980 (Public Law 96-465, 94 Stat. 2157). Subsequently, sec. 117 of Public Law 97-241 (96 Stat. 279), sec. 124 of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98-164, 97 Stat. 1025) and sec. 102 of Public Law 98-533 (98 Stat. 2708) redesignated it as secs. 34, 36, and 37, respectively. Sec. 125(a) of Public Law 99-93 (99 Stat. 405) redesignated this section as sec. 38, and sec. 128 of the same law again redesignated it as sec. 39. Sec. 504(1) of Public Law 99-399 redesignated it as sec. 41 and sec. 126 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204, 101 Stat. 1341) redesignated it as sec. 42. Sec. 4603 of the International Narcotics Control Act of 1988 (Public Law 100-690, 102 Stat. 4287) redesignated it as sec. 43 and inserted a new sec. 42.

[71] Title II was added by sec. 202(b) of Public Law 97-241 (96 Stat. 283), effective October 1, 1982.

Sec. 702 of the Intelligence Authorization Act, 1987 (Public Law 99-569, 100 Stat. 3190), provided:

"SOVIET MISSION AT THE UNITED NATIONS

"Sec. 702. (a)(1) It is the policy of the Congress that the number of nationals of the Soviet Union admitted to the United states to serve as members of the Soviet mission at the United Nations headquarters shall not substantially exceed the number of United States nationals who serve as members of the United States mission at the United Nations headquarters, unless the President determines that the admission to the United States of additional Soviet nationals to serve as members of the Soviet mission at the United Nation headquarters would be in the interest of the United States.

"(2) Beginning six months after the date of enactment of this section, and every six months thereafter, the Secretary of State shall prepare and transmit to the Committee on Foreign Relations and the Select Committee on Intelligence of the Senate and to the Committee on Foreign Affairs and the Permanent Select Committee on Intelligence of the House of Representatives a report setting forth the number of Soviet nationals admitted during the preceding six-month period to the United States pursuant to a determination of the President under paragraph (1) and their duties with the Soviet mission at the United Nations headquarters.

"(3) Nothing in this subsection may be construed as including any dependent or spouse is not a member of a mission at the United Nations headquarters in the calculation of the number of members of a mission at the United Nations headquarters.

"(b) It is the sense of the Congress that the Secretary of State and the Attorney General should, not later than six months after the date of enactment of this section, prepare and transmit to the Committee on Foreign Relations and the Select Committee on Intelligence of the Senate and to the Committee of Foreign Affairs and the Permanent Select Committee on Intelligence of the House of Representatives a report setting forth a plan for ensuring that the number of Soviet nationals described in paragraph (a)(1) does not exceed the limitation described in that paragraph.

"(c) For purposes of this section—

"(1) the term 'members of the Soviet mission' and 'members of the United States mission' are used within the meaning of the term 'member of the mission', as defined by article 1(b) of the Vienna Convention on Diplomatic Relations, done April 18, 1961; and

"(2) the term 'mission at the United Nations headquarters' of a country includes all the missions of such country to the United Nations in New York City and includes missions in New York City to specialized agencies of the United Nations, as defined in article 57 of the charter of the United Nations."

[72] 22 U.S.C. 4301. Sec. 202(b) of Public Law 97-241 (96 Stat. 283) added sec. 201, effective October 1, 1982.

(c) The treatment to be accorded to a foreign mission in the United States shall be determined by the Secretary after due consideration of the benefits, privileges, and immunities provided to missions of the United States in the country or territory represented by that foreign mission as well as matters relating to the protection of the interests of the United States.[73]

DEFINITIONS

Sec. 202. (a) For purposes of this title—

(1) "benefit" (with respect to a foreign mission) means any acquisition, or authorization for an acquisition, in the United States by or for a foreign mission, including the acquisition of—

(A) real property by purchase, lease, exchange, construction, or otherwise,

(B) public services, including services relating to customs, importation, and utilities, and the processing of applications or requests relating to public services,

(C) supplies, maintenance, and transportation,

(D) locally engaged staff on a temporary or regular basis,

(E) travel and related services,

(F) protective services, and

(G) [74] financial and currency exchange services,

and includes such other benefits as the Secretary may designate;

(2) "chancery" means the principal offices of a foreign mission used for diplomatic or related purposes, and annexes to such offices (including ancillary offices and support facilities), and includes the site and any building on such site which is used for such purposes;

(3) "Director" means the Director of the Office of Foreign Missions established pursuant to section 203(a);

(4) [75] "foreign mission" means any mission to or agency or entity in the United States which is involved in the diplomatic, consular, or other activities of, or which is substantially owned or effectively controlled by—

(A) a foreign government, or

(B) an organization (other than an international organization, as defined in section 209(b) of this title) representing a territory or political entity which has been granted diplomatic or other official privileges and immunities under the laws of the United States or which engages in some aspect of the conduct of the international affairs of such territory or political entity,

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[73] Sec. 127(a) of Public Law 99-93 (99 Stat. 405) added the words "as well as matters relating to the protection of the interests of the United States".

[74] Subparagraph (G) was added by sec. 153(e) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204, 101 Stat. 1353).

[75] Subsec. (4) was substantively amended and restated by sec. 701 of Public Law 99-569 (100 Stat. 3190).

including any real property of such a mission and including the personnel of such a mission;

(5) "real property" includes any right, title, or interest in or to, or the beneficial use of, any real property in the United States, including any office or other building;

(6) "Secretary" means the Secretary of State;

(7) "sending State" means the foreign government, territory, or political entity represented by a foreign mission; and

(8) "United States" means, when used in a geographic sense, the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

(b) Determinations with respect to the meaning and applicability of the terms used in subsection (a) shall be committed to the discretion of the Secretary.

OFFICE OF FOREIGN MISSIONS

Sec. 203.[76] (a) The Secretary shall establish an Office of Foreign Missions as an office within the Department of State. The Office shall be headed by a Director, appointed by the President by and with the advice and consent of the Senate,[77] who shall perform his or her functions under the supervision and direction of the Secretary. The Secretary may delegate this authority for supervision and direction of the Director only to the Deputy Secretary of State or an Under Secretary of State. The Director shall have the rank of ambassador. The Director shall be an individual who is a member of the Foreign Service, who has been a member of the Foreign Service for at least ten years, who has significant administrative experience, and who has served in countries in which the United States has had significant problems in assuring the secure and efficient operations of its missions as the result of the actions of other countries.[78] The Director shall be compensated at the annual rate of pay for positions authorized by section 5315 of title 5, United States Code.[79]

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[76] 22 U.S.C. 4303. Sec. 202(b) of Public Law 97-241 (96 Stat. 283) added sec. 203, effective October 1, 1982.

[77] Sec. 604(a)(1) of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98-164, 97 Stat. 1043) substituted the requirement of appointment by the President by and with the advice and consent of the Senate in lieu of a requirement for appointment by the Secretary of State. Sec. 604(c) of Public Law 98-164 further stated that this amendment would apply to any Director or Deputy Director of the Office of Foreign Missions appointed after the date of enactment of that Act (Nov. 22, 1983).

[78] Sec. 604(a)(2) of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98-164, 97 Stat. 1044) added this sentence. Sec. 604(c) of Public Law 98-164 further stated that this amendment would apply to the Director or Deputy Director of the Office of Foreign Missions appointed after the date of enactment of that Act (Nov. 22, 1983).

[79] This sentence was added by sec. 173(a)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204, 101 Stat. 1360). Sec. 173(b) of the same Act made it effective 30 days after enactment and sec. 173(c) stated that any new spending authority (as defined in section 401(c) of the Congressional Budget Act of 1974) it provided would be effective for any fiscal year only to the extent or in such amounts as are provided in advance in appropriation Acts.

(b)[80] There shall also be a Deputy Director of the Office of Foreign Missions who shall be an individual who has served in the United States intelligence community.

(c)[80] The Secretary may authorize the Director to—

(1) assist agencies of Federal, State, and municipal government with regard to ascertaining and according benefits, privileges, and immunities to which a foreign mission may be entitled;

(2) provide or assist in the provision of benefits for or on behalf of a foreign mission in accordance with section 204; and

(3) perform such other functions as the Secretary may determine necessary in furtherance of the policy of this title.

PROVISION OF BENEFITS

Sec. 204.[81] (a) Upon the request of a foreign mission, benefits may be provided to or for that foreign mission by or through the Director on such terms and conditions as the Secretary may approve.

(b) If the Secretary determines that such action is reasonably necessary on the basis of reciprocity or otherwise—

(1) to facilitate relations between the United States and a sending State,

(2) to protect the interests of the United States,

(3) to adjust for costs and procedures of obtaining benefits for missions of the United States abroad, or

(4) to assist in resolving a dispute affecting United States interests and involving a foreign mission or sending State,

then the Secretary may require a foreign mission (A) to obtain benefits from or through the Director on such terms and conditions as the Secretary may approve, or (B) to comply with such terms and conditions as the Secretary may determine as a condition to the execution or performance in the United States of any contract or other agreement, the acquisition, retention, or use of any real property, or the application for or acceptance of any benefit (including any benefit from or authorized by any Federal, State, or municipal governmental authority, or any entity providing public services).

(c) Terms and conditions established by the Secretary under this section may include—

(1) a requirement to pay to the Director a surcharge or fee, and

(2) a waiver by a foreign mission or any assignee of or person deriving rights from a foreign mission of any recourse against any governmental authority, any entity providing public services, any employee or agent of such an authority or entity, or any other person, in connection with any action determined by the Secretary to be undertaken in furtherance of this title.

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[80] Sec. 604(b) of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98-164; 97 Stat. 1044) redesignated existing subsec. (b) as subsec. (c) and added this new subsec. (b). Sec. 604(c) of Public Law 98-164 further stated that this amendment would apply to any Director or Deputy Director of the Office of Foreign Missions appointed after the date of enactment of that Act (Nov. 22, 1983).

[81] 22 U.S.C. 4304. Sec. 202(b) of Public Law 97-241 (96 Stat. 283) added sec. 204, effective October 1, 1982.

(d) For purposes of effectuating a waiver of recourse which is required under this section, the Secretary may designate the Director or any other officer of the Department of State as the agent of a foreign mission (or of any assignee of or person deriving rights from a foreign mission). Any such waiver by an officer so designated shall for all purposes (including any court or administrative proceeding) be deemed to be a waiver by the foreign mission (or the assignee of or other person deriving rights from a foreign mission).

(e) Nothing in this title [82] shall be deemed to preclude or limit in any way the authority of the United States Secret Service to provide protective services pursuant to section 202 of title 3, United States Code, or section 3056 of title 18, United States Code, at a level commensurate with protective requirements as determined by the United States Secret Service.

ENFORCEMENT OF COMPLIANCE WITH LIABILITY INSURANCE REQUIREMENTS

Sec. 204A.[83] (a)(1) The head of a foreign mission shall notify promptly the Director of the lapse or termination of any liability insurance coverage held by a member of the mission, by a member of the family of such member, or by an individual described in section 19 of the Convention on Privileges and Immunities of the United Nations of February 13, 1946.

(2) Not later than February 1 of each year, the head of each foreign mission shall prepare and transmit to the Director a report including a list of motor vehicles, vessels, and aircraft registered in the United States by members of the mission, members of the families of such members, individuals described in section 19 of the Convention on Privileges and Immunities of the United Nations of February 13, 1946, and by the mission itself. Such list shall set forth for each such motor vehicle, vessel, or aircraft—

(A) the jurisdiction in which it is registered;

(B) the name of insured;

(C) the name of the insurance company;

(D) the insurance policy number and the extent of insurance coverage; and

(E) such other information as the Director may prescribe.

(b) Whenever the Director finds that a member of a foreign mission, a member of the family of such member, or an individual described in section 19 of the Convention on Privileges and Immunities of the United Nations of February 13, 1946—

(1) is at fault for personal injury, death, or property damage arising out of the operation of a motor vehicle, vessel, or aircraft in the United States,

(2) is not covered by liability insurance, and

(3) has not satisfied a court-rendered judgment against him or is not legally liable,

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[82] Sec. 214(b) of Public Law 99-93 (99 Stat. 405) substituted the word "title" in lieu of "section".

[83] 22 U.S.C. 4304a. Sec. 603 of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98-164, 97 Stat. 1043) added sec. 204A. See also sec. 6 of the Diplomatic Relations Act (page 1011) for additional text concerning requirements for liability insurance.

the Director shall impose a surcharge or fee on the foreign mission of which such member or individual is a part, amounting to the unsatisfied portion of the judgment rendered against such member or individual or, if there is no court-rendered judgment an estimated amount of damages incurred by the victim. The payment of any such surcharge or fee shall be available only for compensation of the victim or his estate.

(c) For purposes of this section—

(1) the term "head of a foreign mission" has the same meaning as is ascribed to the term "head of a mission" in Article 1 of the Vienna Convention on Diplomatic Relations of April 18, 1961 (T.I.A.S. numbered 7502; 23 U.S.T. 3227); and

(2) the terms "members of a mission" and "family" have the same meanings as is ascribed to them by paragraphs (1) and (2) of section 2 of the Diplomatic Relations Act (22 U.S.C. 254a).[84]

PROPERTY OF FOREIGN MISSIONS

Sec. 205.[85] (a)(1) The Secretary shall require any foreign mission, including any mission to an international organization (as defined in section 209(b)(2), to notify the Director prior to any proposed acquisition, or any proposed sale or other disposition, of any real property by or on behalf of such mission. The foreign mission (or other party acting on behalf of the foreign mission) may initiate or execute any contract, proceeding, application, or other action required for the proposed action—

(A) only after the expiration of the 60-day period beginning on the date of such notification (or after the expiration of such shorter period as the Secretary may specify in a given case); and

(B) only if the mission is not notified by the Secretary within that period that the proposal has been disapproved; however, the Secretary may include in such a notification such terms and conditions as the Secretary may determine appropriate in order to remove the disapproval.

(2) For purposes of this section, "acquisition" includes any acquisition or alteration of, or addition to, any real property or any change in the purpose for which real property is used by a foreign mission.

(b) The Secretary may require any foreign mission to divest itself of, or forgo the use of, any real property determined by the Secretary—

(1) not to have been acquired in accordance with this section;

(2) to exceed limitations placed on real property available to a United States mission in the sending State; or

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[84] For text, see page 1010.

[85] 22 U.S.C. 4305. Sec. 202(b) of Public Law 97-241 (96 Stat. 283) added sec. 205, effective October 1, 1982. Subsequently, Sec. 127(e) of Public Law 99-93 (99 Stat. 405) amended sec. 205(a)(1) by:

(1) in the first sentence, by striking out "may" and inserting in lieu thereof "shall";

(2) in the first sentence, by inserting ", including any mission to an international organization (as defined in section 209(b)(2))," after "foreign mission"; and

(3) in the second sentence, by striking out "If such a notification is required, the" and inserting in lieu thereof "The".

(3) [86] where otherwise necessary to protect the interests of the United States.

(c) If a foreign mission has ceased conducting diplomatic, consular, and other governmental activities in the United States and has not designated a protecting power or other agent approved by the Secretary to be responsible for the property of that foreign mission, the Secretary—

(1) until the designation of a protecting power or other agent approved by the Secretary, may protect and preserve any property of that foreign mission; and

(2) may authorize the Director to dispose of such property at such time as the Secretary may determine after the expiration of the one-year period beginning on the date that the foreign mission ceased those activities, and may remit to the sending State the net proceeds from such disposition.

(d) [87](1) After the date of enactment of this subsection, real property in the United States may not be acquired (by sale, lease, or other means) by or on behalf of the foreign mission of a foreign country described in paragraph (4) if, in the judgment of the Secretary of Defense (after consultation with the Secretary of State), the acquisition of that property might substantially improve the capability of that country to intercept communications involving United States Government diplomatic, military, or intelligence matters.

(2) After the date of enactment of this subsection, real property in the United States may not be acquired (by sale, lease, or other means) by or on behalf of the foreign mission of a foreign country described in paragraph (4) if, in the judgment of the Director of the Federal Bureau of Investigation (after consultation with the Secretary of State), the acquisition of that property might substantially improve the capability of that country to engage in intelligence activities directed against the United States Government, other than the intelligence activities described in paragraph (1).

(3) The Secretary of State shall inform the Secretary of Defense and the Director of the Federal Bureau of Investigation immediately upon notice being given pursuant to subsection (a) of this section of a proposed acquisition of real property by or on behalf of the foreign mission of a foreign country described in paragraph (4).

(4) For the purposes of this subsection, the term 'foreign country' means—

(A) any country listed as a Communist country in section 620(f) of the Foreign Assistance Act of 1961;

(B) any country determined by the Secretary of State, for purposes of section 6(j) of the Export Administration Act of 1979, to be a country which has repeatedly provided support for acts of international terrorism; and

(C) any other country which engages in intelligence activities in the United States which are adverse to the national security interests of the United States.

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[86] Sec. 127(d)(3) of Public Law 99-93 (99 Stat. 405) added paragraph (3).

[87] Subsec. (d) was added by sec. 161 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204, 101 Stat. 1356).

(5) As used in this section, the term 'substantially improve' shall not be construed to prevent the establishment of a foreign mission by a country which, on the date of enactment of this section—

(A) does not have a mission in the United States, or

(B) with respect to a city in the United States, did not maintain a mission in that city.

LOCATION OF FOREIGN MISSIONS IN THE DISTRICT OF COLUMBIA

Sec. 206.[88] (a) The location, replacement, or expansion of chanceries in the District of Columbia shall be subject to this section.

(b)(1) A chancery shall be permitted to locate as a matter of right in any area which is zoned commercial, industrial, waterfront, or mixed-use (CR).

(2) A chancery shall also be permitted to locate—

(A) in any area which is zoned medium-high or high density residential, and

(B) in any other area, determined on the basis of existing uses, which includes office or institutional uses, including but not limited to any area zoned mixed-use diplomatic or special purpose,

subject to disapproval by the District of Columbia Board of Zoning Adjustment in accordance with this section.

(3) In each of the areas described in paragraphs (1) and (2), the limitations and conditions applicable to chanceries shall not exceed those applicable to other office or institutional uses in that area.

(c)(1) If a foreign mission wishes to locate a chancery in an area described in subsection (b)(2), or wishes to appeal an administrative decision relating to a chancery based in whole or in part upon any zoning map or regulation, it shall file an application with the Board of Zoning Adjustment which shall publish notice of that application in the District of Columbia Register.

(2) Regulations issued to carry out this section shall provide appropriate opportunities for participation by the public in proceedings concerning the location, replacement, or expansion of chanceries.

(3) A final determination concerning the location, replacement, or expansion of a chancery shall be made not later than six months after the date of the filing of an application with respect to such location, replacement, or expansion. Such determination shall not be subject to the administrative proceedings of any other agency or official except as provided in this title.

(d) Any determination concerning the location of a chancery under subsection (b)(2), or concerning an appeal of an administrative decision with respect to a chancery based in whole or in part upon any zoning regulation or map, shall be based solely on the following criteria:

(1) The international obligation of the United States to facilitate the provision of adequate and secure facilities for foreign missions in the Nation's Capital.

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[88] 22 U.S.C. 4306. Sec. 202(b) of Public Law 97-241 (96 Stat. 283) added sec. 206, effective October 1, 1982.

(2) Historic preservation, as determined by the Board of Zoning Adjustment in carrying out this section; and in order to ensure compatibility with historic landmarks and districts, substantial compliance with District of Columbia and Federal regulations governing historic preservation shall be required with respect to new construction and to demolition of or alteration to historic landmarks.

(3) The adequacy of off-street or other parking and the extent to which the area will be served by public transportation to reduce parking requirements, subject to such special security requirements as may be determined by the Secretary, after consultation with Federal agencies authorized to perform protective services.

(4) The extent to which the area is capable of being adequately protected, as determined by the Secretary, after consultation with Federal agencies authorized to perform protective services.

(5) The municipal interest, as determined by the Mayor of the District of Columbia.

(6) The Federal interest, as determined by the Secretary.

(e)(1) Regulations, proceedings, and other actions of the National Capital Planning Commission, the Zoning Commission for the District of Columbia, and the Board of Zoning Adjustment affecting the location, replacement, or expansion of chanceries shall be consistent with this section (including the criteria set out in subsection (d)) and shall reflect the policy of this title.

(2) Proposed actions of the Zoning Commission concerning implementation of this section shall be referred to the National Capital Planning Commission for review and comment.

(f) Regulations issued to carry out this section shall provide for proceedings of a rule-making and not of an adjudicatory nature.

(g) The Secretary shall require foreign missions to comply substantially with District of Columbia building and related codes in a manner determined by the Secretary to be not inconsistent with the international obligations of the United States.

(h) Approval by the Board of Zoning Adjustment or the Zoning Commission or, except as provided in section 205, by any other agency or official is not required—

(1) for the location, replacement, or expansion of a chancery to the extent that authority to proceed, or rights or interests, with respect to such location, replacement, or expansion were granted to or otherwise acquired by the foreign mission before the effective date of this section; or

(2) for continuing use of a chancery by a foreign mission to the extent that the chancery was being used by a foreign mission on the effective date of this section.

(i)(1) The President may designate the Secretary of Defense, the Secretary of the Interior, or the Administrator of General Services (or such alternate as such official may from time to time designate) to serve as a member of the Zoning Commission in lieu of the Director of the National Park Service whenever the President determines that the Zoning Commission is performing functions concerning the implementation of this section.

(2) Whenever the Board of Zoning Adjustment is performing functions regarding an application by a foreign mission with respect to the location, expansion, or replacement of a chancery—

(A) the representative from the Zoning Commission shall be the Director of the National Park Service or if another person has been designated under paragraph (1) of this subsection, the person so designated; and

(B) the representative from the National Capital Planning Commission shall be the Executive Director of that Commission.

(j) Provisions of law (other than this title) applicable with respect to the location, replacement, or expansion of real property in the District of Columbia shall apply with respect to chanceries only to the extent that they are consistent with this section.

PREEMPTION

Sec. 207.[89] Notwithstanding any other law, no act of any Federal agency shall be effective to confer or deny any benefit with respect to any foreign mission contrary to this title. Nothing in section 202, 203, 204, or 205 may be construed to preempt any State or municipal law or governmental authority regarding zoning, land use, health, safety, or welfare, except that a denial by the Secretary involving a benefit for a foreign mission within the jurisdiction of a particular State or local government shall be controlling.

GENERAL PROVISIONS

Sec. 208.[90] (a) The Secretary may issue such regulations as the Secretary may determine necessary to carry out the policy of this title.

(b) Compliance with any regulation, instruction, or direction issued by the Secretary under this title shall to the extent thereof be a full acquittance and discharge for all purposes of the obligation of the person making the same. No person shall be held liable in any court or administrative proceeding for or with respect to anything done or omitted in good faith in connection with the administration of, or pursuant to and in reliance on, this title, or any regulation, instruction, or direction issued by the Secretary under this title.

(c) For purposes of administering this title—

(1) the Secretary may accept details and assignments of employees of Federal agencies to the Office of Foreign Missions on a reimbursable or nonreimbursable basis (with any such reimbursements to be credited to the appropriations made available for the salaries and expenses of officers and employees of the employing agency); and

(2) the Secretary may, to the extent necessary to obtain services without delay, exercise his authority to employ experts and consultants under section 3109 of title 5, United States

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[89] 22 U.S.C. 4307. Sec. 202(b) of Public Law 97-241 (96 Stat. 283) added sec. 207, effective October 1, 1982.

[90] 22 U.S.C. 4308. Sec. 202(b) of Public Law 97-241 (96 Stat. 283) added sec. 208, effective October 1, 1982.

Code, without requiring compliance with such otherwise applicable requirements for that employment as the Secretary may determine, except that such employment shall be terminated after 60 days if by that time those requirements are not complied with.

(d) Contracts and subcontracts for supplies or services, including personal services, made by or on behalf of the Director shall be made after advertising, in such manner and at such times as the Secretary shall determine to be adequate to ensure notice and opportunity for competition, except that advertisement shall not be required when (1) the Secretary determines that it is impracticable or will not permit timely performance to obtain bids by advertising, or (2) the aggregate amount involved in a purchase of supplies or procurement of services does not exceed $10,000. Such contracts and subcontracts may be entered into without regard to laws and regulations otherwise applicable to solicitation, negotiation, administration, and performance of government contracts. In awarding contracts, the Secretary may consider such factors as relative quality and availability of supplies or services and the compatibility of the supplies or services with implementation of this title.

(e) The head of any Federal agency may, for purposes of this title—

(1) transfer or loan any property to, and perform administrative and technical support functions and services for the operations of, the Office of Foreign Missions (with reimbursements to agencies under this paragraph to be credited to the current applicable appropriation of the agency concerned); and

(2) acquire and accept services from the Office of Foreign Missions, including (whenever the Secretary determines it to be in furtherance of the purposes of this title) acquisitions without regard to laws normally applicable to the acquisition of services by such agency.

(f) Assets of or under the control of the Office of Foreign Missions, wherever situated, which are used by or held for the use of a foreign mission shall not be subject to attachment, execution, injunction, or similar process, whether intermediate or final.

(g) Except as otherwise provided, any determination required under this title shall be committed to the discretion of the Secretary.

(h)(1) In order to implement this title, the Secretary may transfer to the working capital fund established by section 13 of this Act such amounts available to the Department of State as may be necessary.

(2) All revenues, including proceeds from gifts and donations, received by the Director or the Secretary in carrying out this title may be credited to the working capital fund established by section 13 of this Act and shall be available for purposes of this title in accordance with that section.

(3) Only amounts transferred or credited to the working capital fund established by section 13 of this Act may be used in carrying out the functions of the Secretary or the Director under this title.

APPLICATION TO PUBLIC INTERNATIONAL ORGANIZATIONS AND OFFICIAL MISSIONS TO SUCH ORGANIZATIONS

Sec. 209.[91] (a) The Secretary may make section 206, or any other provision of this title, applicable with respect to an international organization to the same extent that it is applicable with respect to a foreign mission if the Secretary determines that such application is necessary to carry out the policy set forth in section 201(b) and to further the objectives set forth in section 204(b).

(b) For purposes of this section, "international organization" means—

(1) a public international organization designated as such pursuant to the International Organizations Immunities Act (22 U.S.C. 288—288f-2) or a public international organization created pursuant to a treaty or other international agreement as an instrument through or by which two or more foreign governments engage in some aspect of their conduct of international affairs; and

(2) an official mission (other than a United States mission) to such a public international organization,

including any real property of such an organization or mission and including the personnel of such an organization or mission.

UNITED STATES RESPONSIBILITIES FOR EMPLOYEES OF THE UNITED NATIONS

Sec. 209A.[92] (a) FINDINGS.—The Congress finds that—

(1) pursuant to the Agreement Between the United States and the United Nations Regarding the Headquarters of the United Nations (authorized by Public Law 80-357 (22 U.S.C. 287 note)), the United States has accepted—

(A) the obligation to permit and to facilitate the right of individuals, who are employed by or are authorized by the United Nations to conduct official business in connection with that organization or its agencies, to enter into and exit from the United States for purposes of conducting official activities within the United Nations Headquarters District, subject to regulation as to points of entry and departure; and

(B) the implied obligation to permit and to facilitate the acquisition of facilities in order to conduct such activities within or in proximity to the United Nations Headquarters District, subject to reasonable regulation including regulation of the location and size of such facilities; and

(2) taking into account paragraph (1) and consistent with the obligation of the United States to facilitate the functioning of the United Nations, the United States has no additional obligation to permit the conduct of any other activities, including nonofficial activities, by such individuals outside of the United Nations Headquarters District.

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[91] 22 U.S.C. 4309. Sec. 202(b) of Public Law 97-241 (96 Stat. 283) added sec. 209, effective October 1, 1982.

[92] Sec. 141 of Public Law 99-93 (99 Stat. 405) added sec. 209A.

(b) ACTIVITIES OF UNITED NATIONS EMPLOYEES.—(1) The conduct of any activities, or the acquisition of any benefits (as defined in section 201(a)(1) of this title), outside the United Nations Headquarters District by any individual employed by, or authorized by the United Nations to conduct official business in connection with that organization or its agencies, or by any person or agency acting on behalf thereof, may be permitted or denied or subject to reasonable regulation, as determined to be in the best interest of the United States and pursuant to this title.

(c) The Secretary shall apply to those employees of the United Nations Secretariat who are nationals of a foreign country or members of a foreign mission all terms, limitations, restrictions, and conditions which are applicable pursuant to this title to the members of that country's mission or of any other mission to the United Nations unless the Secretary determines and reports to the Congress that national security and foreign policy circumstances require that this paragraph be waived in specific circumstances.

(c) REPORTS.—The Secretary shall report to the Congress—

(1) not later than 30 days after the date of the enactment of this section, on the plans of the Secretary for implementing this section; and

(2) not later than 6 months thereafter, on the actions taken pursuant to those plans.

(d) UNITED STATES NATIONALS.—This section shall not apply with respect to any United States national.

(e) DEFINITIONS.—For purposes of this section, the term "United Nations Headquarters District" means the area within the United States which is agreed to by the United Nations and the United States to constitute such a district, together with such other areas as the Secretary of State may approve from time to time in order to permit effective functioning of the United Nations or missions to the United Nations.

PRIVILEGES AND IMMUNITIES

Sec. 210.[93] Nothing in this title shall be construed to limit the authority of the United States to carry out its international obligations, or to supersede or limit immunities otherwise available by law. No act or omission by any foreign mission, public international organization, or official mission to such an organization, in compliance with this title shall be deemed to be an implied waiver of any immunity otherwise provided for by law.

ENFORCEMENT

Sec. 211.[94] (a) It shall be unlawful for any person to make available any benefits to a foreign mission contrary to this title. The United States, acting on its own behalf or on behalf of a foreign mission, has standing to bring or intervene in an action to obtain compliance with this title, including any action for injunctive or other equitable relief.

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[93] 22 U.S.C. 4310. Sec. 202(b) of Public Law 97-241 (96 Stat. 283) added sec. 210, effective October 1, 1982.

[94] 22 U.S.C. 4311. Sec. 202(b) of Public Law 97-241 (96 Stat. 283) added sec. 211, effective October 1, 1982.

(b) Upon the request of any Federal agency, any State or local government agency, or any business or other person that proposes to enter into a contract or other transaction with a foreign mission, the Secretary shall advise whether the proposed transaction is prohibited by any regulation or determination of the Secretary under this title.

PRESIDENTIAL GUIDELINES

Sec. 212.[95] The authorities granted to the Secretary pursuant to the provisions of this title shall be exercised in accordance with procedures and guidelines approved by the President.

SEVERABILITY

Sec. 213.[96] If any provision of this title or the application thereof to any person or circumstance is held invalid, the remainder of this title and the application of such provision to any other person or circumstance shall not be affected thereby.

EXTRAORDINARY PROTECTIVE SERVICES

Sec. 214.[97] (a) GENERAL AUTHORITY.—The Secretary may provide extraordinary protective services for foreign missions directly, by contract, or through State or local authority to the extent deemed necessary by the Secretary in carrying out this title, except that the Secretary may not provide under this section any protective services for which authority exists to provide such services under sections 202(7) and 208 of title 3, United States Code.

(b) REQUIREMENT OF EXTRAORDINARY CIRCUMSTANCES.—The Secretary may provide funds to a State or local authority for protective services under this section only if the Secretary has determined that a threat of violence, or other circumstances, exists which requires extraordinary security measures which exceed those which local law enforcement agencies can reasonably be expected to take.

(c) CONSULTATION WITH CONGRESS BEFORE OBLIGATION OF FUNDS.—Funds may be obligated under this section only after regulations to implement this section have been issued by the Secretary after consultation with appropriate committees of the Congress.

(d) RESTRICTIONS ON USE OF FUNDS.—Of the funds made available for obligation under this section in any fiscal year—

"(1) not more than 20 percent may be obligated for protective services within any single State during that year; and

"(2) not less than 15 percent shall be retained as a reserve for protective services provided directly by the Secretary or for expenditures in local jurisdictions not otherwise covered by an agreement for protective services under this section.

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[95] 22 U.S.C. 4312. Sec. 202(b) of Public Law 97-241 (96 Stat. 283) added sec. 212, effective October 1, 1982.

[96] 22 U.S.C. 4313. Sec. 202(b) of Public Law 97-241 (96 Stat. 283) added sec. 213, effective October 1, 1982.

[97] 22 U.S.C. 4314. Sec. 214 was added by sec. 126(a) of Public Law 99-93 (99 Stat. 405, effective as of October 1, 1985).

The limitations on funds available for obligation in this subsection shall not apply to unobligated funds during the final quarter of any fiscal year.

(e) PERIOD OF AGREEMENT WITH STATE OR LOCAL AUTHORITY.—Any agreement with a State or local authority for the provision of protective services under this section shall be for a period of not to exceed 90 days in any calendar year, but such agreements may be renewed after review by the Secretary.

(f) REQUIREMENT FOR APPROPRIATIONS.—Contracts may be entered into in carrying out this section only to such extent or in such amounts as are provided in advance in appropriation Acts.

(g) WORKING CAPITAL FUND.—Amounts used to carry out this section shall not be subject to section 208(h).

USE OF FOREIGN MISSION IN A MANNER INCOMPATIBLE WITH ITS STATUS AS A FOREIGN MISSION

Sec. 215.[98] (a) ESTABLISHMENT OF LIMITATION ON CERTAIN USES.—A foreign mission may not allow an unaffiliated alien the use of any premise of that foreign mission which is inviolable under United States law (including any treaty) for any purpose which is incompatible with its status as a foreign mission, including use as a residence.

(b) TEMPORARY LODGING.—For the purposes of this section, the term "residence" does not include such temporary lodging as may be permitted under regulations issued by the Secretary.

(c) WAIVER.—The Secretary may waive subsection (a) with respect to all foreign missions of a country (and may revoke such a waiver) 30 days after providing written notification of such a waiver, together with the reasons for such waiver (or revocation of such a waiver), to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

(d) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of State shall submit a report to the Congress concerning the implementation of this section and shall submit such other reports to the Congress concerning changes in implementation as may be necessary.

(e) DEFINITIONS.—For the purposes of this section—

(1) the term "foreign mission" includes any international organization as defined in section 209(b); and

(2) the term "unaffiliated alien" means, with respect to a foreign country, an alien who—

(A) is admitted to the United States as a nonimmigrant, and

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[98] 22 U.S.C. 4315. Sec. 215 was added by sec. 128(a) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204, 101 Stat. 1343). Sec. 128(b) of the same act established the effective date of sec. 215 as follows:

"(b) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to any foreign mission beginning on the date of enactment of this Act.

"(2)(A) The amendment made by subsection (a) shall apply beginning 6 months after the date of enactment of this Act with respect to any nonimmigrant alien who is using a foreign mission as a residence or a place of business on the date of enactment of this Act.

"(B) The Secretary of State may delay the effective date provided for in subparagraph (A) for not more than 6 months with respect to any nonimmigrant alien if the Secretary finds that a hardship to that alien would result from the implementation of subsection (a)."

(B) is not a member, or a family member of a member, of a foreign mission of that foreign country.

APPLICATION OF TRAVEL RESTRICTIONS TO PERSONNEL OF CERTAIN COUNTRIES AND ORGANIZATIONS

Sec. 216. [99] (a) REQUIREMENT FOR RESTRICTIONS.—The Secretary shall apply the same generally applicable restrictions to the travel while in the United States of the individuals described in subsection (b) as are applied under this title to the members of the missions of the Soviet Union in the United States.

(b) INDIVIDUALS SUBJECT TO RESTRICTIONS.—The restrictions required by subsection (a) shall be applied with respect to those individuals who (as determined by the Secretary) are—

(1) the personnel of an international organization, if the individual is a national of any foreign country whose government engages in intelligence activities in the United States that are harmful to the national security of the United States;

(2) the personnel of a mission to an international organization, if that mission is the mission of a foreign government that engages in intelligence activities in the United States that are harmful to the national security of the United States; or

(3) the family members or dependents of an individual described in paragraphs (1) and (2);

and who are not nationals or permanent resident aliens of the United States.

(c) WAIVERS.—The Secretary, after consultation with the Director of Central Intelligence and the Director of the Federal Bureau of Investigation, may waive application of the restrictions required by subsection (a) if the Secretary determines that the national security and foreign policy interests of the United States so require.

(d) REPORTS.—The Secretary shall transmit to the Select Committee on Intelligence and the Committee on Foreign Relations of the Senate, and to the Permanent Select Committee on Intelligence and the Committee on Foreign Affairs of the House of Representatives, not later than six months after the date of enactment of this section and not later than every six months thereafter, a report on the actions taken by the Secretary in carrying out this section during the previous six months.

(e) DEFINITIONS.—For purposes of this section—

(1) the term "generally applicable restrictions" means any limitations on the radius within which unrestricted travel is permitted and obtaining travel services through the auspices of the Office of Foreign Missions for travel elsewhere, and does not include any restrictions which unconditionally prohibit the members of missions of the Soviet Union in the United States from traveling to designated areas of the United States and which are applied as a result of particular factors in relations between the United States and the Soviet Union.

(2) the term "international organization" means an organization described in section 209(b)(1); and

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[99] 22 U.S.C. 4316. Sec. 216 was added by sec. 162(a) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100–204, 101 Stat. 1357). Sec. 162(b) of the same Act made subsec. (a) of sec. 216 effective 90 days after enactment.

(3) the term "personnel" includes—

(A) officers, employees, and any other staff member, and

(B) any individual who is retained under contract or other arrangement to serve functions similar to those of an officer, employee, or other staff member.

TITLE III—DISPOSITION OF PERSONAL PROPERTY ABROAD[100]

DEFINITIONS

Sec. 301. For purposes of this title, the following terms have the following meanings:

(1) The term "employee" means an individual who is under the jurisdiction of a chief of mission to a foreign country (as provided under section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927)) and who is—

(A) an employee as defined by section 2105 of title 5, United States Code;

(B) an officer or employee of the United States Postal Service or of the Postal Rate Commission;

(C) a member of a uniformed service who is not under the command of an area military commander; or

(D) an expert or consultant as authorized pursuant to section 3109 of title 5, United States Code, with the United States or any agency, department, or establishment thereof; but is not a national or permanent resident of the foreign country in which employed.

(2) The term "contractor" means—

(A) an individual employed by personal services contract pursuant to section 2(c) of this Act (22 U.S.C. 2669(c)), section 636(a)(3) of the Foreign Assistance Act of 1961 (22 U.S.C. 2396(a)(3)), or pursuant to other similar authority, including, in the case of an organization performing services under such authority, an individual involved in the performance of such services; and

(B) such other individuals or firms providing goods or services by contract as are designated by regulations issued pursuant to section 303;

but does not include a contractor with or under the supervision of an area military commander.

(3) The term "charitable contribution" means a contribution or gift as defined in section 170(c) of the Internal Revenue Code of 1986, or other similar contribution or gift to a bona fide charitable foreign entity as determined pursuant to regulations or policies issued pursuant to section 303.

(4) The term "chief of mission" has the meaning given such term by section 102(3) of the Foreign Service Act of 1980 (22 U.S.C. 2902(3)).

(5) The term "foreign country" means any country or territory, excluding the United States, the Commonwealth of

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[100] 22 U.S.C. 4341. Title III was added by sec. 186(a) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204, 101 Stat. 1366). Sec. 186(b) of the same Act made this section effective 180 days after enactment.

Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, American Samoa, Guam, the Virgin Islands, and other territories or possessions of the United States.

(6) The term "personal property" means any item of personal property, including automobiles, computers, boats, audio and video equipment, and any other items acquired for personal use, but excluding items of minimal value as determined by regulation or policy issued pursuant to section 303.

(7) The term "profit" means any proceeds (including cash and other valuable consideration but not including amounts of such proceeds given as charitable contributions) for the sale, disposition, or assignment of personal property in excess of the basis for such property. For purposes of this title, basis shall include initial price, inland and overseas transportation costs (if not reimbursed by the United States Government), shipping insurance, taxes, customs fees, duties or other charges, and capital improvements, but shall not include insurance on an item while in use, or maintenance and related costs. For purposes of computing profit, proceeds and costs shall be valued in United States dollars at the time of receipt or payment, at a rate of exchange as determined by regulation or policy issued pursuant to section 303.

LIMITATIONS ON DISPOSITION OF PERSONAL PROPERTY

Sec. 302.[101] (a) General Rule.—Except as authorized under subsection (b), employees or members of their family shall not sell, assign, or otherwise dispose of personal property within a foreign country which was imported into or purchased within that foreign country and which, by virtue of the official status of the employee, was exempt from import limitation, customs duties, or taxes which would otherwise apply.

(b) Approval by Chief of Mission.—The chief of mission to a foreign country, or a designee of such chief of mission, is authorized to approve within that foreign country sales, assignment, or other dispositions of property by employees under the chief of mission's jurisdiction (as described in section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927)) to the extent that such sale, assignment, or other disposition is in accordance with regulations and policies, rules, and procedures issued pursuant to section 303.

(c) Violation.—Violation of this section, or other importation, sale, or other disposition of personal property within a foreign country which violates its laws or regulations or governing international law and is prohibited by regulations and policies, rules, and procedures issued pursuant to section 303, shall be grounds for disciplinary action against an employee.

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[101] 22 U.S.C. 4342. Sec. 302 was added by sec. 186 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204, 101 Stat. 1368). Sec. 186(b) of the same Act made this section effective 180 days after enactment.

REGULATIONS

Sec. 303.[102] (a) ISSUANCE; PURPOSE.—The Secretary of State may issue regulations to carry out the purposes of this title. The primary purpose of such regulations and related policies, rules, and procedures shall be to assure that employees and members of their families do not profit personally from sales or other transactions with persons who are not themselves entitled to exemption from import restrictions, duties, or taxes.

(b) CONTRACTORS.—Such regulations shall require that, to the extent contractors enjoy importation or tax privileges in a foreign country because of their contractual relationship to the United States Government, after the effective date of this title contracting agencies shall include provisions in their contracts to carry out the purpose of this title.

(c) CHIEF OF MISSION.—In order to ensure that due account is taken of local conditions, including applicable laws, markets, exchange rate factors, and accommodation exchange facilities, such regulations may authorize the chief of mission to each foreign country to establish more detailed policies, rules, or procedures for the application of this title within that country to employees under the chief of mission's jurisdiction.

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[102] 22 U.S.C. 4343. Sec. 303 was added by sec. 186 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204, 101 Stat. 1368). Sec. 186(b) of the same Act made this section effective 180 days after enactment.

o. The Immigration and Nationality Act, as amended

Partial text of Public Law 82-414 [H.R. 5678], 66 Stat. 163, approved June 27, 1952; as amended by Public Law 87-510 [H.R. 8291], 76 Stat. 121, approved June 28, 1962; Public Law 88-426 [H.R. 11049], 78 Stat. 400 at 428, approved August 14, 1964; Public Law 95-105 [H.R. 6689], 91 Stat. 844 at 847, approved August 17, 1977; and by Public Law 100-525 [S.2479], 102 Stat. 2609, approved October 24, 1988

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POWERS AND DUTIES OF THE SECRETARY OF STATE; BUREAU OF [1] CONSULAR AFFAIRS

Sec 104.[2] (a) The Secretary of State shall be charged with the administration and the enforcement of the provisions of this Act and all other immigration and nationality laws relating to (1) the powers, duties and functions of diplomatic and consular officers of the United States, except those powers, duties and functions conferred upon the consular officers relating to the granting or refusal of visas; (2) the powers, duties and functions of the Bureau of [3] Consular Affairs; and (3) the determination of nationality of a person not in the United States. He shall establish such regulations; prescribe such forms of reports, entries and other papers; issue such instructions; and perform such other acts as he deems necessary for carrying out such provisions. He is authorized to confer or impose upon any employee of the United States, with the consent of the head of the department or independent establishment under whose jurisdiction the employee is serving, any of the powers, functions, or duties conferred or imposed by this Act or regulations issued thereunder upon officers or employees of the Department of State or of the American Foreign Service.

(b) There is hereby established in the Department of State a Bureau of Consular Affairs, to be headed by an Assistant Secretary of State for Consular Affairs.[4] The Assistant Secretary of State for Consular Affairs [5] shall be a citizen of the United States, qualified by experience, and shall maintain close liaison with the appropriate committees of Congress in order that they may be advised regarding the administration of this Act by consular officers. He shall be charged with any and all responsibility and authority in the administration of the Bureau and of this Act which are conferred on the Secretary of State as may be delegated to him by the Secretary of State or which may be prescribed by the Secretary of State. He shall also perform such other duties as the Secretary of State may prescribe.

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[1] Sec. 9(d) of Public Law 100-525 struck out "SECURITY AND" at this point.

[2] 8 U.S.C. 1104.

[3] Sec. 109(b)(1) of the Foreign Relations Authorization Act, Fiscal Year 1978 (91 Stat. 847) struck out the words "Security and" which formerly appeared at this point.

[4] Sec. 109(b)(1)(B) of the Foreign Relations Authorization Act, Fiscal Year 1978 (91 Stat. 847) substituted the words to this point beginning with "Consular Affairs, to * * *" in lieu of "Security and Consular Affairs to be headed by an administrator (with an appropriate title to be designated by the Secretary of State), with rank and compensation equal to that of an Assistant Secretary of State."

Sec. 109(b)(1)(B) also struck out a sentence (as added by sec. 4(a)(2) of Public Law 87-510, 76 Stat. 123) which formerly appeared at this point and read as follows: "He shall be appointed by the President with the advice and consent of the Senate."

[5] Sec. 109(b)(1)(B)(iii) of the Foreign Relations Authorization Act, Fiscal Year 1978 (91 Stat. 847), substituted the words "Assistant Secretary of State for Consular Affairs" in lieu of "administrator".

(c) Within the Bureau there shall be a Passport Office, a Visa Office, and such other offices as the Secretary of State may deem to be appropriate, each office to be headed by a director. The Directors of the Passport Office and the Visa Office shall be experienced in the administration of the nationality and immigration laws.

(d) The functions heretofore performed by the Passport Division and the Visa Division of the Department of State shall hereafter be performed by the Passport Office and the Visa Office, respectively, of the Bureau of [3] Consular Affairs.

(e) There shall be a General Counsel of the Visa Office, who shall be appointed by the Secretary of State and who shall serve under the general direction of the Legal Adviser of the Department of State. The General Counsel shall have authority to maintain liaison with the appropriate officers of the Service with a view to securing uniform interpretations of the provisions of this Act.

(f) * * * [Repealed—1977] [6]

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[6] Subsec. (f) was repealed by sec. 109(b)(1)(D) of the Foreign Relations Authorization Act, Fiscal Year 1978 (91 Stat. 847). It formerly read as follows:

"(f) The Bureau shall be under the immediate jurisdiction of the Deputy Under Secretary of State for Administration."

p. International Agreements

(1) Transmittal of International Agreements

Public Law 92-403 [S. 596], 86 Stat. 619, approved August 22, 1972

AN ACT To require that international agreements other than treaties, hereafter entered into by the United States, be transmitted to the Congress within sixty days after the execution thereof.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 1, United States Code, is amended by inserting after section 112a the following new section:

"§ 112b.[1] United States international agreements; transmission to Congress

"(a) [2] The Secretary of State shall transmit to the Congress the text of any international agreement (including the text of any oral international agreement, which agreement shall be reduced to writing) [3] other than a treaty, to which the United States is a party as soon as practicable after such agreement has entered into force with respect to the United States but in no event later than sixty days thereafter.[4] However, any such agreement the immediate public disclosure of which would, in the opinion of the President, be prejudicial to the national security of the United States shall not be so transmitted to the Congress but shall be transmitted to the Committee on Foreign Relations of the Senate and the Committee on International Relations [5] of the House of Representatives under an appropriate injunction of secrecy to be removed only upon due notice from the President. Any department or agency of the United States Government which enters into any international agreement on behalf of the United States shall transmit to the Department of State the text of such agreement not later than twenty days after such agreement has been signed.[6]

"(b) [2] Not later than March 1, 1979, and at yearly intervals thereafter, the President shall, under his own signature, transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report with respect to each international agreement which, during the preceding year, was transmitted to the Congress after the expiration of the 60-day period referred to in the first sentence of subsection (a), describing fully and completely the reasons for the late transmittal.

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[1] Title 1, Section 112b of the United States Code is popularly known as the Case-Zablocki Act.

[2] Sec. 708 of Public Law 95-426 (92 Stat. 993) inserted the subsection designation "(a)" and added subsecs. (b) through (e).

[3] The parenthetical phrase was added by sec. 708 of Public Law 95-426 (92 Stat. 993).

[4] Sec. 139 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204, 101 Stat. 1347) required that if the sixty-day period specified in this sentence was not honored, no funds authorized to be appropriated would be available after the end of the sixty-day period to implement any agreement required to be transmitted until the text of such agreement was so transmitted. This restriction on use of funds was made effective sixty days after the enactment of Public Law 100-204 and made applicable during fiscal years 1988 and 1989.

[5] Sec. 5(b) of Public Law 95-45 (91 Stat. 224) amended sec. 112b of title I by substituting "International Relations" in lieu of "Foreign Affairs".

[6] This sentence was added to sec. 112b of title I by sec. 5(a) of Public Law 95-45 (91 Stat. 224).

"(c) [2] Notwithstanding any other provision of law, an international agreement may not be signed or otherwise concluded on behalf of the United States without prior consultation with the Secretary of State. Such consultation may encompass a class of agreements rather than a particular agreement.

"(d) [2] The Secretary of State shall determine for and within the executive branch whether an arrangement constitutes an international agreement within the meaning of this section.

"(e) [2] The President shall, through the Secretary of State, promulgate such rules and regulations as may be necessary to carry out this section.".

Sec. 2. The analysis of chapter 2 of title 1, United States Code, as amended by inserting immediately between items 112a and 113 the following:

"112b. United States international agreement[s] transmission to Congress."

(2) Coordination and Reporting of International Agreements

Regulations of the Secretary of State, Department Regulation 108.809, 22 CFR Part 181, July 13, 1981, 46 F.R. 35917

SUBCHAPTER S—INTERNATIONAL AGREEMENTS

PART 181—COORDINATION AND REPORTING OF INTERNATIONAL AGREEMENTS

Sec.

181.1 Purpose and application.
181.2 Criteria.
181.3 Determinations.
181.4 Consultations with the Secretary of State.
181.5 Twenty-day rule for concluded agreements.
181.6 Documentation and certification.
181.7 Transmittal to the Congress.

Authority: 1 U.S.C. 112b; 22 U.S.C. 2658; 22 U.S.C. 3312.

§ 181.1 Purpose and application.

(a) The purpose of this part is to implement the provisions of 1 U.S.C. 112b, popularly known as the Case-Zablocki Act (hereinafter referred to as the "Act"), on the reporting to Congress and coordination with the Secretary of State of international agreements of the United States. This part applies to all agencies of the U.S. Government whose responsibilities include the negotiation and conclusion of international agreements. This part does not, however, constitute a delegation by the Secretary of State of the authority to engage in such activities. Further, it does not affect any additional requirements of law governing the relationship between particular agencies and the Secretary of State in connection with international negotiations and agreements, or any other requirements of law concerning the relationship between particular agencies and the Congress. The term "agency" as used in this part means each authority of the United States Government, whether or not it is within or subject to review by another agency.

(b) Pursuant to the key legal requirements of the Act—full and timely disclosure to the Congress of all concluded agreements and consultation by agencies with the Secretary of State with respect to proposed agreements—every agency of the Government is required to comply with each of the provisions set out in this part in implementation of the Act. Nevertheless, this part is intended as a framework of measures and procedures which, it is recognized, cannot anticipate all circumstances or situations that may arise. Deviation or derogation from the provisions of this part will not affect the legal validity, under United States law or under international law, of agreements concluded, will not give rise to a cause of action, and will not affect any public or private rights established by such agreements.

§ 181.2 Criteria.

(a) *General.* The following criteria are to be applied in deciding whether any undertaking, oral agreement, document, or set of documents, including an exchange of notes or of correspondence, constitutes an international agreement within the meaning of the Act, as well as within the meaning of 1 U.S.C. 112a, requiring the publication of international agreements. Each of the criteria except those in paragraph (a)(5) of this section must be met in order for any given undertaking of the United States to constitute an international agreement.

(1) *Identity and intention of the parties.* A party to an international agreement must be a state, a state agency, or an intergovernmental organization. The parties must intend their undertaking to be legally binding, and not merely of political or personal effect. Documents intended to have political or moral weight, but not intended to be legally binding, are not international agreements. An example of the latter is the Final Act of the Helsinki Conference on Cooperation and Security in Europe. In addition, the parties must intend their undertaking to be governed by international law, although this intent need not be manifested by a third-party dispute settlement mechanism or any express reference to international law. In the absence of any provision in the arrangement with respect to governing law, it will be presumed to be governed by international law. This presumption may be overcome by clear evidence, in the negotiating history of the agreement or otherwise, that the parties intended the arrangement to be governed by another legal system. Arrangements governed solely by the law of the United States, or one of the states or jurisdictions thereof, or by the law of any foreign state, are not international agreements for these purposes. For example, a foreign military sales loan agreement governed in its entirety by U.S. law is not an international agreement.

(2) *Significance of the arrangement.* Minor or trivial undertakings, even if couched in legal language and form, are not considered international agreements within the meaning of the Act or of 1 U.S.C. 112a. In deciding what level of significance must be reached before a particular arrangement becomes an international agreement, the entire context of the transaction and the expectations and intent of the parties must be taken into account. It is often a matter of degree. For example, a promise to sell one map to a foreign nation is not an international agreement; a promise to exchange all maps of a particular region to be produced over a period of years may be an international agreement. It remains a matter of judgment based on all of the circumstances of the transaction. Determinations are made pursuant to § 181.3. Examples of arrangements that may constitute international agreements are agreements that: (a) are of political significance; (b) involve substantial grants of funds or loans by the United States or credits payable to the United States; (c) constitute a substantial commitment of funds that extends beyond a fiscal year or would be a basis for requesting new appropriations; (d) involve continuing and/or substantial cooperation in the conduct of a particular program or activity, such as scientific, technical, or other cooperation, including the exchange

or receipt of information and its treatment, or the pooling of data. However, individual research grants and contracts do not ordinarily constitute international agreements.

(3) *Specificity, including objective criteria for determining enforceability.* International agreements require precision and specificity in the language setting forth the undertakings of the parties. Undertakings couched in vague or very general terms containing no objective criteria for determining enforceability or performance are not normally international agreements. Most frequently such terms reflect an intent not to be bound. For example, a promise to "help develop a more viable world economic system" lacks the specificity essential to constitute a legally binding international agreement. However, the intent of the parties is the key factor. Undertakings as general as those of, for example, Articles 55 and 56 of the United Nations Charter have been held to create internationally binding obligations intended as such by the parties.

(4) *Necessity for two or more parties.* While unilateral commitments on occasion may be legally binding, they do not constitute international agreements. For example, a statement by the President promising to send money to Country Y to assist earthquake victims would not be an international agreement. It might be an important undertaking, but not all undertakings in international relations are in the form of international agreements. Care should be taken to examine whether a particular undertaking is truly unilateral in nature, or is part of a larger bilateral or multilateral set of undertakings. Moreover, "consideration," as that term is used in domestic contract law, is not required for international agreements.

(5) *Form.* Form as such is not normally an important factor, but it does deserve consideration. Documents which do not follow the customary form for international agreements, as to matters such as style, final clauses, signatures, or entry into force dates, may or may not be international agreements. Failure to use the customary form may constitute evidence of a lack of intent to be legally bound by the arrangement. If, however, the general content and context reveal an intention to enter into a legally binding relationship, a departure from customary form will not preclude the arrangement from being an international agreement. Moreover, the title of the agreement will not be determinative. Decisions will be made on the basis of the substance of the arrangement, rather than on its denomination as an international agreement, a memorandum of understanding, exchange of notes, exchange of letters, technical arrangement, protocol, note verbale, aide-memoire, agreed minute, or any other name.

(b) *Agency-level agreements.* Agency-level agreements are international agreements within the meaning of the Act and of 1 U.S.C. 112a if they satisfy the criteria discussed in paragraph (a) of this section. The fact that an agreement is concluded by and on behalf of a particular agency of the United States Government, rather than the United States Government, does not mean that the agreement is not an international agreement. Determinations are made on the basis of the substance of the agency-level agreement in question.

(c) *Implementing agreements.* An implementing agreement, if it satisfies the criteria discussed in paragraph (a) of this section, may be an international agreement, depending upon how precisely it is anticipated and identified in the underlying agreement it is designed to implement. If the terms of the implementing agreement are closely anticipated and identified in the underlying agreement, only the underlying agreement is considered an international agreement. For example, the underlying agreement might call for the sale by the United States of 1000 tractors, and a subsequent implementing agreement might require a first installment on this obligation by the sale of 100 tractors of the brand X variety. In that case, the implementing agreement is sufficiently identified in the underlying agreement, and would not itself be considered an international agreement within the meaning of the Act or of 1 U.S.C. 112a. Project annexes and other documents which provide technical content for an umbrella agreement are not normally treated as international agreements. However, if the underlying agreement is general in nature, and the implementing agreement meets the specified criteria of paragraph (a) of this section, the implementing agreement might well be an international agreement. For example, if the underlying agreement calls for the conclusion of "agreements for agricultural assistance," but without further specificity, then a particular agricultural assistance agreement subsequently concluded in "implementation" of that obligation, provided it meets the criteria discussed in paragraph (a) of this section, would constitute an international agreement independent of the underlying agreement.

(d) *Extension and modifications of agreements.* If an undertaking constitutes an international agreement within the meaning of the Act and of 1 U.S.C. 112a, then a subsequent extension or modification of such an agreement would itself constitute an international agreement within the meaning of the Act of 1 U.S.C. 112a.

(e) *Oral agreements.* Any oral arrangement that meets the criteria discussed in paragraphs (a)(1)–(4) of this section is an international agreement and, pursuant to section (a) of the Act, must be reduced to writing by the agency that concluded the oral arrangement. In such written form, the arrangement is subject to all the requirements of the Act and of this part. Whenever a question arises whether an oral arrangement constitutes an international agreement, the arrangement shall be reduced to writing and the decision made in accordance with § 181.3.

§ 181.3 Determinations.

(a) Whether any undertaking, document, or set of documents constitutes or would constitute an international agreement within the meaning of the Act or of 1 U.S.C. 112a shall be determined by the Legal Adviser of the Department of State, a Deputy Legal adviser, or in most cases the Assistant Legal Adviser for Treaty Affairs. Such determinations shall be made either on a case-by-case basis, or on periodic consultation, as appropriate.

(b) Agencies whose responsibilities include the negotiation and conclusion of international agreements are responsible for transmitting to the Assistant Legal Adviser for Treaty Affairs, for decision pursuant to paragraph (a) of this section, the texts of any document or set of documents that might constitute an international agreement. The transmittal shall be made prior to or simultaneously with the request for consultations with the Secretary of State required by subsection (c) of the Act and § 181.4 of this part.

(c) Agencies whose responsibilities include the negotiation and conclusion of large numbers of agency-level and implementing arrangements at overseas posts, only a small number of which might constitute international agreements within the meaning of the Act and of 1 U.S.C. 112a, are required to transmit prior to their entry into force only the texts of the more important of such arrangements for decision pursuant to paragraph (a) of this section. The texts of all arrangements that might constitute international agreements shall, however, be transmitted to the Office of the Assistant Legal Adviser for Treaty Affairs as soon as possible, and in no event to arrive at that office later than 20 days after their signing for decision pursuant to paragraph (a) of this section.

(d) Agencies to which paragraphs (b) and (c) of this section apply shall consult periodically with the Assistant Legal Adviser for Treaty Affairs in order to determine which categories of arrangements for which they are responsible are likely to be international agreements within the meaning of the Act and of 1 U.S.C. 112a.

§ 181.4 Consultations with the Secretary of State.

(a) The Secretary of State is responsible, on behalf of the President, for ensuring that all proposed international agreements of the United States are fully consistent with United States foreign policy objectives. Except as provided in § 181.3(c) of this part, no agency of the U.S. Government may conclude an international agreement, whether entered into in the name of the U.S. Government or in the name of the agency, without prior consultation with the Secretary of State or his designee.

(b) The Secretary of State (or his designee) gives his approval for any proposed agreement negotiated pursuant to his authorization, and his opinion on any proposed agreement negotiated by an agency which has separate authority to negotiate such agreement. The approval or opinion of the Secretary of State or his designee with respect to any proposed international agreement will be given pursuant to Department of State procedures set out in Volume 11, *Foreign Affairs Manual,* Chapter 700 (Circular 175 procedure). Officers of the Department of State shall be responsible for the preparation of all documents required by the Circular 175 procedure.

(c) Pursuant to the Circular 175 procedure, the approval of, or an opinion on a proposed international agreement to be concluded in the name of the U.S. Government will be given either by the Secretary of State or his designee. The approval of, or opinion on a proposed international agreement to be concluded in the name of a particular agency of the U.S. Government will be given by the interested assistant secretary or secretaries of State, or their designees, unless such official(s) judge that consultation with the Secretary, Deputy Secretary, or an Under Secretary is necessary. The approval of, or opinion on a proposed international agreement will normally be given within 20 days of receipt of the request for consultation and of the information as required by § 181.4(d)–(g).

(d) Any agency wishing to conclude an international agreement shall transmit to the interested bureau or office in the Department of State, or to the Office of the Legal Adviser, for consultation pursuant to this section, a draft text or summary of the proposed agreement, a precise citation of the Constitutional, statutory, or treaty authority for such agreement, and other background information as requested by the Department of State. The transmittal of the draft text or summary and citation of legal authority shall be made before negotiations are undertaken, or if that is not feasible, as early as possible in the negotiating process. In any event such transmittals must be made no later than 50 days prior to the anticipated date for concluding the proposed agreement. If unusual circumstances prevent this 50-day requirement from being met, the concerned agency shall use its best efforts to effect such transmittal as early as possible prior to the anticipated date for concluding the proposed agreement.

(e) If a proposed agreement embodies a commitment to furnish funds, goods, or services that are beyond or in addition to those authorized in an approved budget, the agency proposing the agreement shall state what arrangements have been planned or carried out concerning consultation with the Office Management and Budget for such commitment. The Department of State should receive confirmation that the relevant budget approved by the President provides or requests funds adequate to fulfill the proposed commitment, or that the President has made a determination to seek the required funds.

(f) Consultation may encompass a specific class of agreements rather than a particular agreement where a series of agreements of the same general type is contemplated; that is, where a number of agreements are to be negotiated according to a more or less standard formula, such as, for example, Public Law 480 Agricultural Commodities Agreements. Any agency wishing to conclude a particular agreement within a specific class of agreements about which consultations have previously been held pursuant to this section shall transmit a draft text of the proposed agreement to the Office of the Legal Adviser as early as possible but in no event later than 20 days prior to the anticipated date for concluding the agreement.

(g) The consultation requirement shall be deemed to be satisfied with respect to proposed international agreements of the United States about which the Secretary of State (or his designee) has been consulted in his capacity as a member of an interagency committee or council established for the purpose of approving such proposed agreements. Designees of the Secretary of State serving on any such interagency committee or council are to provide as soon as possible to the interested offices or bureaus of the Department of State and to the Office of the Legal Adviser copies of draft texts or summaries of such proposed agreements and other background information as requested.

(h) Before an agreement containing a foreign language text may be signed or otherwise concluded, a signed memorandum must be obtained from a responsible language officer of the Department of State or of the U.S. Government agency concerned certifying that the foreign language text and the English language text are in conformity with each other and that both texts have the same meaning in all substantive respects. The signed memorandum is to be made available to the Department of State upon request.

§ 181.5 Twenty-day rule for concluded agreements.

(a) Any agency, including the Department of State, that concludes an international agreement within the meaning of the Act and of 1 U.S.C. 112a, whether entered into in the name of the U.S. Government or in the name of the agency, must transmit the text of the concluded agreement to the office of the Assistant Legal Adviser for Treaty Affairs as soon as possible and in no event to arrive at that office later than 20 days after the agreement has been signed. The 20-day limit, which is required by the Act, is essential for purposes of permitting the Department of State to meet its obligation under the Act to transmit concluded agreements to the Congress no later than 60 days after their entry into force.

(b) In any case of transmittal after the 20-day limit, the agency or Department of State office concerned may be asked to provide to the Assistant Legal Adviser for Treaty Affairs a statement describing the reasons for the late transmittal. Any such statements will be used, as necessary, in the preparation of the annual report on late transmittals, to be signed by the President and transmitted to the Congress, as required by subsection (b) of the Act.

§ 181.6 Documentation and certification.

(a) Transmittals of concluded agreements to the Assistant Legal Adviser for Treaty Affairs pursuant to § 181.5 must include the signed or initialed original texts, together with all accompanying papers, such as agreed minutes, exchanges of notes, or side letters. The texts transmitted must be accurate, legible, and complete, and must include the texts of all languages in which the agreement was signed or initiated.[1] Names and identities of the individuals signing or initialing the agreements, for the foreign government as well as for the United States, must, unless clearly evident in the texts transmitted, be separately provided.

(b) Agreements from overseas posts should be transmitted to the Department of State by priority airgram, marked for the attention of the Assistant Legal Adviser for Treaty Affairs, with the following notation below the enclosure line: FAIM: Please send attached original agreement to L/T on arrival.

(c) Where the original texts of concluded agreements are not available, certified copies must be transmitted in the same manner as original texts. A certified copy must be an exact copy of the signed original.

(d) When an exchange of diplomatic notes between the United States and a foreign government constitutes an agreement or has the effect of extending, modifying, or terminating an agreement to which the United States is a party, a properly certified copy of the note from the United States to the foreign government, and the signed original of the note from the foreign government, must be transmitted. If, in conjunction with the agreement signed, other notes related thereto are exchanged (either at the same time, beforehand, or subsequently), properly certified copies of the notes from the United States to the foreign government must be transmitted with the signed originals of the notes from the foreign government.

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[1] "Initiated" should probably be "initialed".

(e) Copies may be certified either by a certification on the document itself, or by a separate certification attached to the document. A certification on the document itself is placed at the end of the document. It indicates, either typed or stamped, that the document is a true copy of the original signed or initialed by (insert full name of signing officer), and it is signed by the certifying officer. If a certification is typed on a separate sheet of paper, it briefly describes the document certified and states that it is a true copy of the original signed by (full name) and it is signed by the certifying officer.

§ 181.7 Transmittal to the Congress.

(a) International agreements other than treaties shall be transmitted by the Assistant Legal Adviser for Treaty Affairs to the President of the Senate and the Speaker of the House of Representatives as soon as practicable after the entry into force of such agreements, but in no event later than 60 days thereafter.

(b) Classified agreements shall be transmitted by the Assistant Secretary of State for Congressional Relations to the Senate Committee on Foreign Relations and to the House Committee on Foreign Affairs.

(c) The Assistant Legal Adviser for Treaty Affairs shall also transmit to the President of the Senate and to the Speaker of the House of Representatives background information to accompany each agreement reported under the Act. Background statements, while not expressly required by the Act, have been requested by the Congress and have become an integral part of the reporting requirement. Each background statement shall include information explaining the agreement, the negotiations, the effect of the agreement, and a precise citation of legal authority. At the request of the Assistant Legal Adviser for Treaty Affairs, each background statement is to be prepared in time for transmittal with the agreement it accompanies by the office most closely concerned with the agreement. Background statements for classified agreements are to be transmitted by the Assistant Secretary of State for Congressional Relations to the Senate Committee on Foreign Relations and to the House Committee on Foreign Affairs.

(d) Pursuant to Section 12 of the Taiwan Relations Act (22 U.S.C. 3311), any agreement entered into between the American Institute in Taiwan and the governing authorities on Taiwan, or any agreement entered into between the Institute and an agency of the United States Government, shall be transmitted by the Assistant Secretary of State for Congressional Relations to the President of the Senate and to the Speaker of the House of Representatives as soon as practicable after the entry into force of such agreements, but in no event later than 60 days thereafter. Classified agreements entered into by the Institute shall be transmitted by the Assistant Secretary for Congressional Relations to the Senate Committee on Foreign Relations.

(3) Executive Order 11742, October 23, 1973, 38 F.R. 29457

DELEGATING TO THE SECRETARY OF STATE CERTAIN FUNCTIONS WITH RESPECT TO THE NEGOTIATION OF INTERNATIONAL AGREEMENTS RELATING TO THE ENHANCEMENT OF THE ENVIRONMENT

Under and by virtue of the authority vested in me by section 301 of title 3 of the United States Code and as President of the United States, I hereby authorize and empower the Secretary of State, in coordination with the Council on Environmental Quality, the Environmental Protection Agency, and other appropriate Federal agencies, to perform, without the approval, ratification, or other action of the President, the functions vested in the President by section 7 of the Federal Water Pollution Control Act Amendments of 1972 (Public Law 92-500; 86 Stat. 898) with respect to international agreements relating to the enhancement of the environment.

q. Executive Order 11651, as amended

Executive Order 11651, March 3, 1972, 37 F.R. 4699; as amended by Executive Order 11951, January 6, 1977, 42 F.R. 1453; and by Executive Order 12188, January 2, 1980, 45 F.R. 989

TEXTILE TRADE AGREEMENTS

By virtue of the authority vested in me by Section 204 of the Agricultural Act of 1956 (76 Stat. 104), as amended (7 U.S.C. 1854), and section 301 of title 3 of the United States Code, and as President of the United States, it is hereby ordered as follows:

Section 1. (a) The Committee for the Implementation of Textile Agreements (hereinafter referred to as the Committee), consisting of representatives of the Departments of State, the Treasury, Commerce and Labor, with the representative of the Department of Commerce as Chairman, is hereby established to supervise the implementation of all textile trade agreements. It shall be located for administrative purposes in the Department of Commerce. The United States Trade Representative, or his designee, also shall be a member of the Committee.[1]

(b) Except as provided in subsection (c) of this section, the Chairman of the Committee, after notice to the representatives of the other member agencies, shall take such actions or shall recommend that appropriate officials or agencies of the United States take such actions as may be necessary to implement each such textile trade agreement: *Provided, however,* That if a majority of the voting members of the Committee have objected to such action within ten days of receipt of notice from the Chairman, such action shall not be taken except as may otherwise be authorized.

(c) To the extent authorized by the President and by such officials as the President may from time to time designate, the Committee shall take appropriate actions concerning textiles and textile products under Section 204 of the Agricultural Act of 1956, as amended, and Articles 3 and 8 of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973,[2] and with respect to any other matter affecting textile trade policy.

Sec. 2. (a) The Commissioner of Customs shall take such actions as the Committee, acting through its Chairman, shall recommend to carry out all agreements and arrangements entered into by the United States pursuant to Section 204 of the Agricultural Act of 1956, as amended, with respect to entry, or withdrawal from warehouse, for consumption in the United States of textiles and textile products.

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[1] This sentence was amended and restated by sec. 1-105(c) of Executive Order 12188, January 2, 1980. The sentence formerly provided that the President's Special Representative for Trade Negotiations would be a nonvoting member of the Committee.

[2] Executive Order 11951 struck out the words "Article 3 and 6 of the Long Term Agreement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, as extended," and substituted the words to this point beginning with "Articles 3 and 8".

(b) Under instructions approved by the Committee, the Secretary of State shall designate the Chairman of the United States delegation to all negotiations and consultations with foreign governments undertaken with respect to the implementation of textile trade agreements pursuant to this Order. The Secretary of State shall make such representations to foreign governments, including the presentation of diplomatic notes and other communications, as may be necessary to carry out this Order.

2. Organization and Administration

a. Foreign Service Act of 1980

Public Law 96-465 [H.R. 6790], 94 Stat. 2071, approved October 17, 1980, as amended by Executive Order 12289, February 14, 1981, 46 F.R. 12693; Public Law 97-241 [S. 1193], 96 Stat. 273, approved August 24, 1982; Executive Order 12446, October 17, 1983, 48 F.R. 48443; Public Law 98-164 [Department of State Authorization Act, Fiscal Years 1984 and 1985, H.R. 2915], 97 Stat. 1017, approved November 22, 1983; by Public Law 99-93 [H.R. 2068], 99 Stat. 405, approved August 16, 1985; by Public Law 99-335 [H.R. 2672], 100 Stat. 514, approved June 6, 1986; by Public Law 99-399 [H.R. 2151], 100 Stat. 853, approved August 27, 1986; by Public Law 99-529 [S. 1917], 100 Stat. 3610, approved October 24, 1986; and by Public Law 100-204 [Foreign Relations Authorization Act for Fiscal Years 1988 and 1989, H.R. 1777], 101 Stat. 1331, approved December 22, 1987

AN ACT To promote the foreign policy of the United States by strengthening and improving the Foreign Service of the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. Short Title.—This Act may be cited as the "Foreign Service Act of 1980".

Sec. 2. Table of Contents.—The table of contents for this Act is as follows:

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TITLE I—THE FOREIGN SERVICE OF THE UNITED STATES

CHAPTER 1—GENERAL PROVISIONS

Sec. 101.[1] **Findings and Objectives.**—(a) The Congress finds that—

(1) a career foreign service, characterized by excellence and professionalism, is essential in the national interest to assist the President and the Secretary of State in conducting the foreign affairs of the United States;

(2) the scope and complexity of the foreign affairs of the Nation have heightened the need for a professional foreign service that will serve the foreign affairs interests of the United States in an integrated fashion and that can provide a resource of qualified personnel for the President, the Secretary of State, and the agencies concerned with foreign affairs;

(3) the Foreign Service of the United States, established under the Act of May 24, 1924 (commonly known as the Rogers Act) and continued by the Foreign Service Act of 1946, must be preserved, strengthened, and improved in order to carry out its mission effectively in response to the complex challenges of modern diplomacy and international relations;

(4) the members of the Foreign Service should be representative of the American people, aware of the principles and history of the United States and informed of current concerns and trends in American life, knowledgeable of the affairs, cultures, and languages of other countries, and available to serve in assignments throughout the world; and

(5) the Foreign Service should be operated on the basis of merit principles.

(b) The objective of this Act is to strengthen and improve the Foreign Service of the United States by—

(1) assuring, in accordance with merit principles, admission through impartial and rigorous examination, acquisition of career status only by those who have demonstrated their fitness through successful completion of probationary assignments, effective career development, advancement and retention of the ablest, and separation of those who do not meet the requisite standards of performance;

(2) fostering the development and vigorous implementation of policies and procedures, including affirmative action programs, which will facilitate and encourage (A) entry into and advancement in the Foreign Service by persons from all segments of American society, and (B) equal opportunity and fair and equitable treatment for all without regard to political affiliation, race, color, religion, national origin, sex, marital status, age, or handicapping condition;

(3) providing for more efficient, economical, and equitable personnel administration through a simplified structure of Foreign Service personnel categories and salaries;

(4) establishing a statutory basis for participation by the members of the Foreign Service, through their elected repre-

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[1] 22 U.S.C. 3901.

sentatives, in the formulation of personnel policies and procedures which affect their conditions of employment, and maintaining a fair and effective system for the resolution of individual grievances that will ensure the fullest measure of due process for the members of the Foreign Service;

(5) minimizing the impact of the hardships, disruptions, and other unusual conditions of service abroad upon the members of the Foreign Service, and mitigating the special impact of such conditions upon their families;

(6) providing salaries, allowances, and benefits that will permit the Foreign Service to attract and retain qualified personnel as well as a system of incentive payments and awards to encourage and reward outstanding performance;

(7) establishing a Senior Foreign Service which is characterized by strong policy formulation capabilities, outstanding executive leadership qualities, and highly developed functional, foreign language, and area expertise;

(8) improving Foreign Service managerial flexibility and effectiveness;

(9) increasing efficiency and economy by promoting maximum compatibility among the agencies authorized by law to utilize the Foreign Service personnel system, as well as compatibility between the Foreign Service personnel system and other personnel systems of the Government; and

(10) otherwise enabling the Foreign Service to serve effectively the interests of the United States and to provide the highest caliber of representation in the conduct of foreign affairs.

Sec. 102.[2] **Definitions.**—As used in this Act, the term—

(1) "abroad" means all areas not included within the United States;

(2) "agency" means an agency as defined in section 552(e) of title 5, United States Code;

(3) "chief of mission" means the principal officer in charge of a diplomatic mission of the United States or of a United States office abroad which is designated by the Secretary of State as diplomatic in nature, including any individual assigned under section 502(c) to be temporarily in charge of such a mission or office;

(4) "Department" means the Department of State, except that with reference to the exercise of functions under this Act with respect to another agency authorized by law to utilize the Foreign Service personnel system, such term means that other agency;

(5) "employee" (except as provided in section 1002(8)) means, when used with respect to an agency or to the Government generally, an officer or employee (including a member of the Service) or a member of the Armed Forces of the United States, the commissioned corps of the Public Health Service, or

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[2] 22 U.S.C. 3902. Sec. 130(a) of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98-164, 97 Stat. 1027) struck out a subsec. designation "(a)" following the section title and struck out the text of subsec. (b). Subsec. (b) had read as follows:

"(b) References in this Act or any other law to 'Foreign Service officers' shall, with respect to the International Communications Agency, be deemed to refer to Foreign Service information officers."

the commissioned corps of the National Oceanic and Atmospheric Administration;

(6) "function" includes any duty, obligation, power, authority, responsibility, right, privilege, discretion, or activity;

(7) "Government" means the Government of the United States;

(8) "merit principles" means the principles set out in section 2301(b) of title 5, United States Code;

(9) "principal officer" means the officer in charge of a diplomatic mission, consular mission (other than a consular agency), or other Foreign Service post;

(10) "Secretary" means the Secretary of State, except that (subject to section 201) with reference to the exercise of functions under this Act with respect to any agency authorized by law to utilize the Foreign Service personnel system, such term means the head of that agency;

(11) "Service" or "Foreign Service" means the Foreign Service of the United States; and

(12) "United States", when used in a geographic sense, means the several States and the District of Columbia.

Sec. 103.[3] Members of the Service.—The following are the members of the Service.

(1) Chiefs of mission, appointed under section 302(a)(1) or assigned under section 502(c).

(2) Ambassadors at large, appointed under section 302(a)(1).

(3) Members of the Senior Foreign Service, appointed under section 302(a)(1) or 303, who are the corps of leaders and experts for the management of the Service and the performance of its functions.

(4) Foreign Service officers, appointed under section 302(a)(1), who have general responsibility for carrying out the functions of the Service.

(5) Foreign Service personnel, United States citizens appointed under section 303, who provide skills and services required for effective performance by the Service.

(6) Foreign national employees, foreign nationals appointed under section 303, who provide clerical, administrative, technical, fiscal, and other support at Foreign Service posts abroad.

(7) Consular agents, appointed under section 303 by the Secretary of State, who provide consular and related services as authorized by the Secretary of State at specified locations abroad where no Foreign Service posts are situated.

Sec. 104.[4] Functions of the Service.—Members of the Service shall, under the direction of the Secretary—

(1) represent the interest of the United States in relation to foreign countries and international organizations, and perform the functions relevant to their appointments and assignments, including (as appropriate) functions under the Vienna Convention on Diplomatic Relations, the Vienna Convention on Consular Relations, other international agreements to which the

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[3] 22 U.S.C. 3903.

[4] 22 U.S.C. 3904.

United States is a party, the laws of the United States, and orders, regulations, and directives issued pursuant to law;

(2) provide guidance for the formulation and conduct of programs and activities of the Department and other agencies which relate to the foreign relations of the United States; and

(3) perform functions on behalf of any agency or other Government establishment (including any establishment in the legislative or judicial branch) requiring their services.

Sec. 105.[5] **Merit Principles; Protections for Members of the Service; and Minority Recruitment.**—(a)(1) All personnel actions with respect to career members and career candidates in the Service (including applicants for career candidate appointments) shall be made in accordance with merit principles.

(2) For purposes of paragraph (1), the term "personnel action" means—

(A) any appointment, promotion, assignment (including assignment to any position or salary class), award of performance pay or special differential, within-class salary increase, separation, or performance evaluation, and

(B) any decision, recommendation, examination, or ranking provided for under this Act which relates to any action referred to in subparagraph (A).

(b) The Secretary shall administer the provisions of this Act and shall prescribe such regulations as may be necessary to ensure that members of the Service, as well as applicants for appointments in the Service—

(1) are free from discrimination on the basis of race, color, religion, sex, national origin, age, handicapping condition, marital status, or political affiliation, as prohibited under section 2302(b)(1) of title 5, United States Code;

(2) are free from reprisal for—

(A) a disclosure of information by a member of applicant which the member or applicant reasonably believes evidences—

(i) a violation of any law, rule, or regulation, or

(ii) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety,

if such disclosure is not specifically prohibited by law and if such information is not specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs; or

(B) a disclosure to the Special Counsel of the Merit Systems Protection Board, or to the Inspector General of an agency (including the Inspector General of the Department of State and the Foreign Service) or another employee designated by the head of the agency to receive such disclosures, of information which the member or applicant reasonably believes evidences—

(i) a violation of any law, rule, or regulation, or

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[5] 22 U.S.C. 3905.

(ii) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety;

(3) are free to submit to officials of the Service and the Department any report, evaluation, or recommendation, including the right to submit such report, evaluation, or recommendation through a separate dissent channel, whether or not the views expressed therein are in accord with approved policy, unless the report, evaluation, or recommendation was submitted with the knowledge that it was false or with willful disregard for its truth or falsity; and

(4) are free from any personnel practice prohibited by section 2302 of title 5, United States Code.

(c) This section shall not be construed as authorizing the withholding of information from the Congress or the taking of any action against a member of the Service who discloses information to the Congress.

(d)(1) The Secretary shall establish a minority recruitment program for the Service consistent with section 7201 of title 5, United States Code.

(2)[6] The Secretary shall transmit, to the Chairman of the Committee on Foreign Relations of the Senate and the Speaker of the House of Representatives, the Department's reports on its equal employment opportunity and affirmative action programs and its minority recruitment programs, which reports are required by law, regulation, or directive to be submitted to the Equal Employment Opportunity Commission (EEOC) or the Office of Personnel Management (OPM). Each such report shall be transmitted to the Congress at least once annually, and shall be received by the Congress not later than 30 days after its original submission to the Equal Employment Opportunity Commission or the Office of Personnel Management.

(e) This section shall not be construed to extinguish or lessen any effort to achieve equal employment opportunity through affirmative action or any right or remedy available to any employee or applicant for employment in the civil service under—

(1) section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16), prohibiting discrimination on the basis of race, color, religion, sex, or national origin;

(2) sections 12 and 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631, 633a), prohibiting discrimination on the basis of age;

(3) section 6(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)), prohibiting discrimination on the basis of sex;

(4) sections 501 and 505 of the Rehabilitation Act of 1973 (29 U.S.C. 791, 794a), prohibiting discrimination on the basis of handicapping condition; or

(5) any provision of law, rule, or regulation prohibiting discrimination on the basis of marital status or political affiliation.

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[6] Paragraph (2) was amended and restated by sec. 185(a) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100–204, 101 Stat. 1365).

CHAPTER 2—MANAGEMENT OF THE SERVICE

Sec. 201.[7] **The Secretary of State.**—(a) Under the direction of the President, the Secretary of State shall administer and direct the Service and shall coordinate its activities with the needs of the Department of State and other agencies.

(b) The Secretary of State alone among the heads of agencies utilizing the Foreign Service personnel system shall perform the functions expressly vested in the Secretary of State by this Act.

Sec. 202.[8] **Other Agencies Utilizing the Foreign Service Personnel System.**—(a)(1) The Director of the International Communication Agency and the Director of the United States International Development Cooperation Agency may utilize the Foreign Service personnel system with respect to their respective agencies in accordance with this Act.

(2) The Secretary of Agriculture may utilize the Foreign Service personnel system in accordance with this Act—

(A) with respect to personnel of the Foreign Agricultural Service, and

(B) with respect to other personnel of the Department of Agriculture to the extent the President determines to be necessary in order to enable the Department of Agriculture to carry out functions which require service abroad.

(3) The Secretary of Commerce may utilize the Foreign Service personnel system in accordance with this Act—

(A) with respect to the personnel performing functions transferred to the Department of Commerce from the Department of State by Reorganization Plan Numbered 3 of 1979, and

(B) with respect to other personnel of the Department of Commerce to the extent the President determines to be necessary in order to enable the Department of Commerce to carry out functions which require service abroad.

(b) Subject to section 201(b)—

(1) the agency heads referred to in subsection (a), and

(2) the head of any other agency (to the extent authority to utilize the Foreign Service personnel system is granted to such agency head under any other Act),

shall in the case of their respective agencies exercise the functions vested in the Secretary by this Act.

Sec. 203.[9] **Compatibility Among Agencies Utilizing the Foreign Service Personnel System.**—(a) The Service shall be administered to the extent practicable in a manner that will assure maximum compatibility among the agencies authorized by law to utilize the Foreign Service personnel system. To this end, the other heads of such agencies shall consult regularly with the Secretary of State.

(b) Nothing in this chapter shall be construed as diminishing the authority of the head of any agency authorized by law to utilize the Foreign Service personnel system.

Sec. 204.[10] **Consolidated and Uniform Administration of the Service.**—The Secretary shall on a continuing basis consider the need for uniformity of personnel policies and procedures and for consolidation (in accordance with section 23 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2695)) of personnel functions among agencies utilizing the Foreign Service personnel system. Where feasible, the Secretary of State shall encourage (in consultation with the other heads of such agencies) the development of uniform policies and procedures and consolidated personnel functions.

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[7] 22 U.S.C. 3921.

[8] 22 U.S.C. 3922.

[9] 22 U.S.C. 3923.

[10] 22 U.S.C. 3924.

Sec. 205.[11] Compatibility Between the Foreign Service and Other Government Personnel Systems.—The Service shall be administered to the extent practicable in conformity with general policies and regulations of the Government. The Secretary shall consult with the Director of the Office of Personnel Management, the Director of the Office of Management and Budget, and the heads of such other agencies as the President shall determine, in order to assure compatibility of the Foreign Service personnel system with other Government personnel systems to the extent practicable.

Sec. 206.[12] Regulations; Delegation of Functions.—(a) The Secretary may prescribe such regulations as the Secretary deems appropriate to carry out functions under this Act.

(b) The Secretary may delegate functions under this Act which are vested in the Secretary to any employee of the Department or any member of the Service.

Sec. 207.[13] Chief of Mission.—(a) Under the direction of the President, the chief of mission to a foreign country—

> (1) shall have full responsibility for the direction, coordination, and supervision of all Government executive branch employees in that country (except for employees under the command of a United States area military commander); and
>
> (2) shall keep fully and currently informed with respect to all activities and operations of the Government within that country, and shall insure that all Government executive branch employees in that country (except for employees under the command of a United States area military commander) comply fully with all applicable directives of the chief of mission.

(b) Any executive branch agency having employees in a foreign country shall keep the chief of mission to that country fully and currently informed with respect to all activities and operations of its employees in that country, and shall insure that all of its employees in that country (except for employees under the command of a United States area military commander) comply fully with all applicable directives of the chief of mission.

(c) [14] Each chief of mission to a foreign country shall have as a principal duty the promotion of United States goods and services for export to such country.

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[11] 22 U.S.C. 3925.

[12] 22 U.S.C. 3926.

[13] 22 U.S.C. 3927. The words "executive branch" in subsecs. (a)(1), (a)(2), and (b) were inserted by sec. 136 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204, 101 Stat. 1345).

[14] Subsec. (c) was added by sec. 123 of Public Law 97-241 (96 Stat. 281).

Sec. 208.[15] **Director General of the Foreign Service.**—There shall be a Director General of the Foreign Service, who shall be appointed by the President, by and with the advice and consent of the Senate, from among the career members of the Senior Foreign Service. The Director General shall assist the Secretary of State in the management of the Service and shall perform such functions as the Secretary of State may prescribe.

Sec. 209.[16] **Inspector General.**—(a)(1) There shall be an Inspector General of the Department of State and the Foreign Service, who shall be appointed by the President, by and with the advice and consent of the Senate, without regard to political affiliation from among individuals exceptionally qualified for the position by virtue of their integrity and their demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations, or their knowledge and experience in the conduct of foreign affairs. The Inspector General shall report to and be under the general supervision of the Secretary of State. Neither the Secretary of State nor any other officer of the Department shall prevent or prohibit the Inspector General from initiating, carrying out, or completing any audit or investigation, or from issuing any subpena during the course of any audit or investigation.[17] The Inspector General shall periodically (at least every 5 years) inspect and audit the administration of activities and operations of each Foreign Service post and each bureau and other operating unit of the Department of State, and shall perform such other functions as the Secretary of State may prescribe, except that the Secretary of State shall not assign to the Inspector General any general program operating responsibilities.

(2) The Inspector General may be removed from office by the President. The President shall communicate the reasons for any such removal to both Houses of Congress.

(b) Inspections, investigations, and audits conducted by or under the direction of the Inspector General shall include the systematic review and evaluation of the administration of activities and operations of Foreign Service posts and bureaus and other operating units of the Department of State, including an examination of—

(1) whether financial transactions and accounts are properly conducted, maintained, and reported;

(2) whether resources are being used and managed with the maximum degree of efficiency, effectiveness, and economy;

(3) whether the administration of activities and operations meets the requirements of applicable laws and regulations and, specifically, whether such administration is consistent with the requirements of section 105;

(4) whether there exist instances of fraud or other serious problems, abuses, or deficiencies, and whether adequate steps for detection, correction, and prevention have been taken; and

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[15] 22 U.S.C. 3928.

[16] 22 U.S.C. 3929.

[17] The sentence following this note was repealed by Sec. 413 of Public Law 99-399 (100 Stat. 868) and was restored by Sec. 405 of Public Law 99-529 (100 Stat. 3010).

(5) whether policy goals and objectives are being effectively achieved and whether the interests of the United States are being accurately and effectively represented.

(c)(1) The Inspector General shall develop and implement policies and procedures for the inspection and audit activities carried out under this section. These policies and procedures shall be consistent with the general policies and guidelines of the Government for inspection and audit activities and shall comply with the standards established by the Comptroller General of the United States for audits of Government agencies, organizations, programs, activities, and functions.

(2) In carrying out the duties and responsibilities established under this section, the Inspector General shall give particular regard to the activities of the Comptroller General of the United States with a view toward insuring effective coordination and cooperation.

(3) In carrying out the duties and responsibilities established under this section, the Inspector General shall report expeditiously to the Attorney General whenever the Inspector General has reasonable grounds to believe there has been a violation of Federal criminal law.

(d)(1) The Inspector General shall keep the Secretary of State fully and currently informed, by means of the reports required by paragraphs (2) and (3) and otherwise, concerning fraud and other serious problems, abuses, and deficiencies relating to the administration of activities and operations administered or financed by the Department of State.

(2) The Inspector General shall, not later than April 30 of each year, prepare and furnish to the Secretary of State an annual report summarizing the activities of the Inspector General. Such report shall include—

(A) a description of significant problems, abuses, and deficiencies relating to the administration of activities and operations of Foreign Service posts, and bureaus and other operating units of the Department of State, which were disclosed by the Inspector General within the reporting period;

(B) a description of the recommendations for corrective action made by the Inspector General during the reporting period with respect to significant problems, abuses, or deficiencies described pursuant to subparagraph (A);

(C) an identification of each significant recommendation described in previous annual reports on which corrective action has not been completed;

(D) a summary of matters referred to prosecutive authorities and the prosecutions and convictions which have resulted; and

(E) a listing of each audit report completed by the Inspector General during the reporting period.

The Secretary of State shall transmit a copy of such annual report within 30 days after receiving it to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives and to other appropriate committees, together with a report of the Secretary of State containing any comments which the Secretary of State deems appropriate. Within 60 days after transmitting such reports to those committees, the Secretary of State shall make copies of them available to the public upon request and at a reasonable cost.

(3) The Inspector General shall report immediately to the Secretary of State whenever the Inspector General becomes aware of particularly serious or flagrant problems, abuses, or deficiencies relating to the administration of activities and operations of Foreign Service posts or bureaus or other operating units of the Department of State. The Secretary of State shall transmit any such report to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives and to other appropriate committees within 7 days after receiving it, together with a report by the Secretary of State containing any comments the Secretary of State deems appropriate.

(4) Nothing in this subsection shall be construed to authorize the public disclosure by any individual of any information which is—

(A) specifically prohibited from disclosure by any other provision of law; or

(B) specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs.

(e)(1) The Inspector General shall have the same authority in carrying out the provisions of this section as is granted under section 6 of the Inspector General Act of 1978 to each Inspector General of an establishment (as defined in section 11(2) of such Act) for carrying out the provisions of that Act, and the responsibilities of other officers of the Government to the Inspector General shall be the same as the responsibilities of the head of an agency or establishment under section 6 (b) and (c) of such Act.

(2) At the request of the Inspector General, employees of the Department and members of the Service may be assigned as employees of the Inspector General. The individuals so assigned and individuals appointed pursuant to paragraph (1) shall be responsible solely to the Inspector General, and the Inspector General or his or her designee shall prepare the performance evaluation reports for such individuals.

(f)(1) The Inspector General may receive and investigate complaints or information from a member of the Service or employee of the Department concerning the possible existence of an activity constituting a violation of laws or regulations, constituting mismanagement, gross waste of funds, or abuse of authority, or constituting a substantial and specific danger to public health or safety.

(2) The Inspector General shall not, after receipt of a complaint or information from a member of the Service or employee of the Department, disclose the identity of such individual without the consent of such individual, unless the Inspector General determines such disclosure is unavoidable during the course of the investigation.

(g) Under the general supervision of the Secretary of State, the Inspector General may review activities and operations performed under the direction, coordination, and supervision of chiefs of mission for the purpose of ascertaining their consonance with the foreign policy of the United States and their consistency with the responsibilities of the Secretary of State and the chief of mission.

Sec. 210.[18] **Board of the Foreign Service.**—The President shall establish a Board of the Foreign Service to advise the Secretary of State on matters relating to the Service, including furtherance of the objectives of maximum compatibility among agencies authorized by law to utilize the Foreign Service personnel system and compatibility between the Foreign Service personnel system and the other personnel systems of the Government. The Board of the Foreign Service shall be chaired by an individual appointed by the President and shall include one or more representatives of the Department of State, the International Communication Agency, the United States International Development Cooperation Agency, the Department of Agriculture, the Department of Commerce, the Department of Labor, the Office of Personnel Management, the Office of Management and Budget, the Equal Employment Opportunity Commission, and such other agencies as the President may designate.

Sec. 211.[19] **Board of Examiners for the Foreign Service.**—(a) The President shall establish a Board of Examiners for the Foreign Service to develop, and supervise the administration of, examinations prescribed under section 301(b) to be given to candidates for appointment in the Service. The Board shall consist of 15 members appointed by the President (no fewer than 5 of whom shall be appointed from among individuals who are not Government employees and who shall be qualified for service on the Board by virtue of their knowledge, experience, or training in the fields of testing or equal employment opportunity). The Board shall include representatives of agencies utilizing the Foreign Service personnel system and representatives of other agencies which have responsibility for employment testing. The Board shall be chaired by a member of the Board, designated by the President, who is a member of the Service.

(b) The Board of Examiners shall periodically review the examinations prescribed under section 301(b) in order to determine—

(1) whether any such examination has an adverse impact on the hiring, promotion, or other employment opportunity of members of any race, sex, or ethnic group;

(2) methods of minimizing any such adverse impact;

(3) alternatives to any examinations which have such an adverse impact; and

(4) whether such examinations are valid in relation to job performance.

The Board of Examiners shall annually report its findings under this subsection to the Secretary of State and shall furnish to the Secretary of State its recommendations for improvements in the development, use, and administration of the examinations prescribed under section 301(b).

(c) Any vacancy or vacancies on the Board shall not impair the right of the remaining members to exercise the full powers of the Board.

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[18] 22 U.S.C. 3930. Sec. 153 of Public Law 99-93 (99 Stat. 405) substituted the language in second sentence "an individual appointed by the President" in lieu of "a career member of the Senior Foreign Service designated by the Secretary of State.".

[19] 22 U.S.C. 3931.

CHAPTER 3—APPOINTMENTS

Sec. 301.[20] **General Provisions Relating to Appointments.**—(a) Only citizens of the United States may be appointed to the Service, other than for service abroad as a consular agent or as a foreign national employee.

(b) The Secretary shall prescribe, as appropriate, written, oral, physical, foreign language, and other examinations for appointment to the Service (other than as a chief of mission or ambassador at large).

(c) The fact that an applicant for appointment as a Foreign Service officer candidate is a veteran or disabled veteran shall be considered an affirmative factor in making such appointments. As used in this subsection, the term "veteran or disabled veteran" means an individual who is a preference eligible under subparagraph (A), (B), or (C) of section 2108(3) of title 5, United States Code.

(d)(1) Members of the Service serving under career appointments are career members of the Service. Members of the Service serving under limited appointments are either career candidates or noncareer members of the Service.

(2) Chiefs of mission, ambassadors at large, and ministers serve at the pleasure of the President.

(3) An appointment as a Foreign Service officer is a career appointment. Foreign Service employees serving as career candidates or career members of the Service shall not represent to the income tax authorities of the District of Columbia or any other State or locality that they are exempt from income taxation on the basis of holding a Presidential appointment subject to Senate confirmation or that they are exempt on the basis of serving in an appointment whose tenure is at the pleasure of the President.[21]

Sec. 302.[22] **Appointments by the President.**—(a)(1) The President may, by and with the advice and consent of the Senate, appoint an individual as a chief of mission, as an ambassador at large, as a minister, as a career member of the Senior Foreign Service, or as a Foreign Service officer.

(2)(A) The President may, by and with the advice and consent of the Senate, confer the personal rank of career ambassador upon a career member of the Senior Foreign Service in recognition of especially distinguished service over a sustained period.

(B)(i) Subject to the requirement of clause (ii), the President may confer the personal rank of ambassador or minister on an individual in connection with a special mission for the President of a temporary nature not exceeding six months in duration.

(ii) The President may confer such personal rank only if, prior to such conferral, he transmits to the Committee on Foreign Relations of the Senate a written report setting forth—

(I) the necessity for conferring such rank,

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[20] 22 U.S.C. 3941.

[21] The last sentence was added by sec. 179(a) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204, 101 Stat. 1331). Sec. 179(b) made the sentence effective with respect to tax years beginning after December 31, 1987.

[22] 22 U.S.C. 3942.

(II) the dates during which such rank will be held,

(III) the justification for not submitting the proposed conferral of personal rank to the Senate as a nomination for advice and consent to appointment, and

(IV) all relevant information concerning any potential conflict of interest which the proposed recipient of such personal rank may have with regard to the special mission.

Such report shall be transmitted not less than 30 days prior to conferral of the personal rank of ambassador or minister except in cases where the President certifies in his report that urgent circumstances require the immediate conferral of such rank.

(C) An individual upon whom a personal rank is conferred under subparagraph (A) or (B) shall not receive any additional compensation solely by virtue of such personal rank.

(3) Except as provided in paragraph (2)(B) of this subsection or in clause 3, section 2, article II of the Constitution (relating to recess appointments), an individual may not be designated as ambassador or minister, or be designated to serve in any position with the title of ambassador or minister, without the advice and consent of the Senate.

(b) If a member of the Service is appointed to any position in the executive branch by the President, by and with the advice and consent of the Senate, or by the President alone, the period of service in that position by the member shall be regarded as an assignment under chapter 5 and the member shall not, by virtue of the acceptance of such assignment, lose his or her status as a member of the Service. A member of the Senior Foreign Service who accepts such an assignment shall receive the salary and leave (if any) of the position to which the member is appointed by the President and shall not be eligible for performance pay under Chapter 4 of this Act.[23]

Sec. 303.[24] **Appointments by the Secretary.**—The Secretary may appoint the members of the Service (other than the members of the Service who are in the personnel categories specified in section 302(a)) in accordance with this Act and such regulations as the Secretary may prescribe.

Sec. 304.[25] **Appointment of Chiefs of Mission.**—(a)(1) An individual appointed or assigned to be a chief of mission should possess clearly demonstrated competence to perform the duties of a chief of mission, including, to the maximum extent practicable, a useful knowledge of the principal language or dialect of the country in which the individual is to serve, and knowledge and understanding of the history, the culture, the economic and political institutions, and the interests of that country and its people.

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[23] The last sentence of subsec. (b) was amended by sec. 177(b) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204, 101 Stat. 1362). It formerly read as follows:

"A member of the Senior Foreign Service who accepts such an assignment may elect to continue to receive the salary of his or her salary class, to remain eligible for performance pay under chapter 4, and to receive the leave to which such member is entitled under subchapter I of chapter 63 of title 5, United States Code, as a member of the Senior Foreign Service, in lieu of receiving the salary and leave (if any) of the position to which the member is appointed by the President."

Sec. 177(c) of Public Law 100-204 stated that the amendment shall not apply to the salary of any individual serving under a Presidential appointment under section 302 of the Foreign Service Act of 1980 immediately before its enactment during the period such individual continues to serve in his position.

[24] 22 U.S.C. 3943.

[25] 22 U.S.C. 3944.

(2) Given the qualifications specified in paragraph (1), positions as chief of mission should normally be accorded to career members of the Service, though circumstances will warrant appointments from time to time of qualified individuals who are not career members of the Service.

(3) Contributions to political campaigns should not be a factor in the appointment of an individual as a chief of mission.

(4) The President shall provide the Committee on Foreign Relations of the Senate, with each nomination for an appointment as a chief of mission, a report on the demonstrated competence of that nominee to perform the duties of the position in which he or she is to serve.

(b)(1) In order to assist the President in selecting qualified candidates for appointment or assignment as chiefs of mission, the Secretary of State shall from time to time furnish the President with the names of career members of the Service who are qualified to serve as chiefs of mission, together with pertinent information about such members.

(2) Each individual nominated by the President to be a chief of mission, ambassador at large, or minister shall, at the time of nomination, file with the Committee on Foreign Relations of the Senate and the Speaker of the House of Representatives a report of contributions made by such individual and by members of his or her immediate family during the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination. The report shall be verified by the oath of the nominee, taken before any individual authorized to administer oaths. The chairman of the Committee on Foreign Relations of the Senate shall have each such report printed in the Congressional Record. As used in this paragraph, the term "contribution" has the same meaning given such term by section 301(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)), and the term "immediate family" means the spouse of the nominee, and any child, parent, grandparent, brother, or sister of the nominee and the spouses of any of them.

(c) Within 6 months after assuming the position, the chief of mission to a foreign country shall submit, to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives, a report describing his or her own foreign language competence and the foreign language competence of the mission staff in the principal language or other dialect of that country.

Sec. 305.[26] **Appointment to the Senior Foreign Service.**—(a) Appointment to the Senior Foreign Service shall be to a salary class established under section 402, and not to a position.

(b) An individual may not be given a limited appointment in the Senior Foreign Service if that appointment would cause the number of members of the Senior Foreign Service serving under limited appointments to exceed 5 percent of the total number of members of the Senior Foreign Service, except that (1) members of the Senior Foreign Service assigned to the Peace Corps shall be excluded in the calculation and application of this limitation, and (2) members of the Senior Foreign Service serving under limited appointments with reemployment rights under section 310 as career appointees in the Senior Executive Service shall be considered to be career members of the Senior Foreign Service for purposes of this subsection.

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[26] 22 U.S.C. 3945. Subsection (c) was added by sec. 119(a) of Public Law 99-93 (99 Stat. 405), effective October 1, 1985.

(c)(1) Appointments to the Senior Foreign Service by the Secretary of Commerce shall be excluded in the calculation and application of the limitation in subsection (b).

(2) Except as provided in paragraph (3), no more than one individual (other than an individual with reemployment rights under section 310 as a career appointee in the Senior Executive Service) may serve under a limited appointment in the Senior Foreign Service in the Department of Commerce at any time.

(3) The Secretary of Commerce may appoint an individual to a limited appointment in the Senior Foreign Service for a specific position abroad if—

(A) no career member of the Service who has the necessary qualifications is available to serve in the position; and

(B) the individual appointed has unique qualifications for the specific position.

Sec. 306.[27] **Career Appointments.**—(a) Before receiving a career appointment in the Service an individual shall first serve under a limited appointment as a career candidate for a trial period of service prescribed by the Secretary. During such trial period of service, the Secretary shall decide whether—

(1) to offer a career appointment to the candidate under section 303, or

(2) to recommend to the President that the candidate be given a career appointment under section 302.

(b) Decisions by the Secretary under subsection (a) shall be based upon the recommendations of boards, established by the Secretary and composed entirely or primarily of career members of the Service, which shall evaluate the fitness and aptitude of career candidates for the work of the Service.

(c)[28] Nothing in this section shall be construed to limit the authority of the Secretary or the Foreign Service Grievance Board under section 1107 of this Act.

Sec. 307.[29] **Entry Levels for Foreign Service Officer Candidates.**—A career candidate for appointment as a Foreign Service officer may not be initially assigned under section 404 to a salary class higher than class 4 in the Foreign Service Schedule unless—

(1) the Secretary determines in an individual case that assignment to a higher class is warranted because of the qualifi-

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[27] 22 U.S.C. 3946.

[28] Subsec. (c) was added by sec. 181(c) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204, 101 Stat. 1363). Sec. 181(e) of Public Law 100-204 provided that the amendment not apply with respect to any grievance in which the Board had issued a final decision pursuant to section 1107 of the Foreign Service Act of 1980 before the date of its enactment.

[29] 22 U.S.C. 3947.

cations (including foreign language competence) and experience of the candidate and the needs of the Service; or

(2) at the time such initial assignment is made, the candidate is serving under a career appointment in the Service and is receiving a salary at a rate equal to or higher than the minimum rate payable for class 4 in the Foreign Service Schedule.

Sec. 308.[30] **Recall and Reemployment of Career Members.**—(a) Whenever the Secretary determines that the needs of the Service so require, the Secretary may recall any retired career member of the Service for active duty in the same personnel category as that member was serving at the time of retirement. A retired career member may be recalled under this section to any appropriate salary class or rate, except that a retired career member of the Senior Foreign Service may not be recalled to a salary class higher than the one in which the member was serving at the time of retirement unless appointed to such higher class by the President, by and with the advice and consent of the Senate.

(b) Former career members of the Service may be reappointed under section 302(a)(1) or 303, without regard to section 306, in a salary class which is appropriate in light of the qualifications and experience of the individual being reappointed.

Sec. 309.[31] **Limited Appointments.**—(a) A limited appointment in the Service, including an appointment of an individual who is an employee of an agency, may not exceed 5 years in duration and, except as provided in subsection (b), may not be extended or renewed. A limited appointment in the Service which is limited by its terms to a period of one year or less is a temporary appointment.

(b) A limited appointment may be extended for continued service—(1) as a consular agent;

(2) in accordance with section 311(a);

(3) as a career candidate, if continued service is determined appropriate to remedy a matter that would be cognizable as a grievance under chapter 11; and

(4) as a career employee in another Federal personnel system serving in a Foreign Service position on detail from another agency.

Sec. 310.[32] **Reemployment Rights Following Limited Appointment.**—Any employee of an agency who accepts a limited appointment in the Service with the consent of the head of the agency in which the employee is employed shall be entitled, upon the termination of such limited appointment, to be reemployed in accordance with section 3597 of title 5, United States Code.

Sec. 311.[33] **Employment of Family Members of Government Employees.**—(a) The Secretary, when employing individuals abroad in positions to which career members of the Service are not customarily assigned (including, when continuity over a long term is not a significant consideration, vacant positions normally filled by foreign national employees), shall give equal consideration to employing available qualified family members of members of the Service or of other Government employees assigned abroad. Family members so employed shall serve under renewable limited appointments in the Service and may be paid either in accordance with the Foreign Service Schedule or a local compensation plan established under section 408.

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[30] 22 U.S.C. 3948.

[31] 22 U.S.C. 3949. Sec. 176 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204, 101 Stat. 1361) added subsec. designation (a); replaced the words "section 311(a)" with "subsection (b)" in subsec. (a); and added a new subsec. (b).

[32] 22 U.S.C. 3950.

[33] 22 U.S.C. 3951.

(b) Employment of family members in accordance with this section may not be used to avoid fulfilling the need for full-time career positions.

Sec. 312.[34] Diplomatic and Consular Commissions.—(a) The Secretary of State may recommend to the President that a member of the Service who is a citizen of the United States be commissioned as a diplomatic or consular officer or both. The President may, by and with the advice and consent of the Senate, commission such member of the Service as a diplomatic or consular officer or both. The Secretary of State may commission as a vice consul a member of the Service who is a citizen of the United States. All official functions performed by a diplomatic or consular officer, including a vice consul, shall be performed under such a commission.

(b) Members of the Service commissioned under this section may, in accordance with their commissions, perform any function which any category of diplomatic officer (other than a chief of mission) or consular officer is authorized by law to perform.

(c) The Secretary of State shall define the limits of consular districts.

CHAPTER 4—COMPENSATION

Sec. 401.[35] Salaries of Chiefs of Mission.—(a) Each chief of mission shall receive a salary, as determined by the President, at one of the annual rates payable for levels II through V of the Executive Schedule under sections 5313 through 5316 of title 5, United States Code, except that the total compensation, exclusive of danger pay, for any chief of mission shall not exceed the annual rate payable for level II of such Executive Schedule. [36]

(b) The salary of a chief of mission shall commence upon the effective date of appointment to that position. The official services of a chief of mission are not terminated by the appointment of a successor, but shall continue for such additional period, not to exceed 50 days after relinquishment of charge of the mission, as the Secretary of State may determine. During that period, the Secretary of State may require the chief of mission to perform such functions as the Secretary of State deems necessary in the interest of the Government.

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[34] 22 U.S.C. 3952.

[35] 22 U.S.C. 3961.

[36] Sec. 177 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204, 101 Stat. 1362) struck out the words "except as provided in section 302(b)" at the beginning of subsec. (a) and added the words which follow "United States Code". Sec. 177 also stated that these amendments would not apply to the salary of any individual serving under a Presidential appointment under section 302 of the Foreign Service Act of 1980 immediately before the date of their enactment during the period such individual continues to serve in such position.

Sec. 402.[37] **Salaries of the Senior Foreign Service.**—(a)(1) [38] the President shall prescribe salary classes for the Senior Foreign Service and shall prescribe an appropriate title for each class. The President shall also prescribe one or more basic salary rates for each class.[32] Basic salary rates for the Senior Foreign Service may not exceed the maximum rate or be less than the minimum rate of basic pay payable for the Senior Executive Service under section 5382 of title 5, United States Code, and shall be adjusted at the same time and in the same manner as rates of basic pay are adjusted for the Senior Executive Service.

(2) [38] The Secretary shall determine which of the basic salary rates prescribed by the President under paragraph (1) for any salary class shall be paid to each member of the Senior Foreign Service who is appointed to that class. The Secretary may adjust the basic salary rate of a member of the Senior Foreign Service not more than once during any 12-month period.

(b)(1) An individual who is a career appointee in the Senior Executive Service receiving basic pay at one of the rates payable under section 5382 of title 5, United States Code, and who accepts a limited appointment in the Senior Foreign Service in a salary class for which the basic salary rate is less than such basic rate of pay, shall be paid a salary at his or her former basic rate of pay (with adjustments as provided in paragraph (2)) until the salary for his or her salary class in the Senior Foreign Service equals or exceeds the salary payable to such individual under this subsection.

(2) The salary paid to an individual under this subsection shall be adjusted by 50 percent of each adjustment, which takes effect after the appointment of such individual to the Senior Foreign Service, in the basic rate of pay at which that individual was paid under section 5382 of title 5, United States Code, immediately prior to such appointment.

Sec. 403.[39] **Foreign Service Schedule.**—The President shall establish a Foreign Service Schedule which shall consist of 9 salary classes and which shall apply to members of the Service who are citizens of the United States and for whom salary rates are not otherwise provided for by this chapter. The maximum salary rate for the highest class established under this section, which shall be designated class 1, may not exceed the maximum rate of basic pay prescribed for GS-15 of the General Schedule under section 5332 of title 5, United States Code. Salary rates established under this section shall be adjusted in accordance with subchapter I of chapter 53 of title 5, United States Code.

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[37] 22 U.S.C. 3962. Sec. 2403(d)(2) of this Act stated that "For the purposes of implementing section 2101, sections 402(a) and 403 shall be effective as of the date of enactment of this Act." (October 17, 1980).

[38] Sec. 124 of Public Law 97-241 (96 Stat. 281) inserted the paragraph designation "(1)", added the second sentence in par. (1), and inserted a new par. (2).

[39] 22 U.S.C. 3963. Sec. 2403(d)(2) of this Act stated that "For the purposes of implementing section 2101, sections 402(a) and 403 shall be effective as of the date of enactment of this Act." (Oct. 17, 1980).

Note.—Executive Order 12663, January 6, 1989, 54 F.R. 791, states:

FOREIGN SERVICE SCHEDULE

Step	Class 1	Class 2	Class 3	Class 4	Class 5	Class 6	Class 7	Class 8	Class 9
1	$57,158	$46,315	$37,529	$30,410	$24,641	$22,028	$19,693	$17,605	$15,738
2	58,873	47,704	38,655	31,322	25,380	22,689	20,284	18,133	16,210
3	60,639	49,136	39,815	32,262	26,142	23,370	20,892	18,677	16,696
4	62,458	50,610	41,009	33,230	26,926	24,071	21,519	19,237	17,197
5	64,332	52,128	42,239	34,227	27,734	24,793	22,165	19,815	17,713
6	66,262	53,692	43,506	35,254	28,566	25,536	22,830	20,409	18,245
7	68,250	55,303	44,812	36,311	29,423	26,303	23,514	21,021	18,792
8	70,297	56,962	46,156	37,400	30,305	27,092	24,220	21,652	19,936
9	72,406	58,670	47,541	38,522	31,214	27,904	24,947	22,301	19,936
10	74,303	60,431	48,967	39,678	32,151	28,742	25,695	22,971	20,535
11	74,303	62,243	50,436	40,868	33,115	29,604	26,466	23,660	21,151
12	74,303	64,111	51,949	42,095	34,109	30,492	27,260	24,369	21,785
13	74,303	66,034	53,507	43,357	35,132	31,407	28,078	25,101	22,439
14	74,303	68,015	55,113	44,658	36,186	32,349	28,920	25,854	23,112

Sec. 404.[40] **Assignment to a Salary Class.**—(a) The Secretary shall assign all Foreign Service officers and Foreign Service personnel (other than Foreign Service personnel who are paid in accordance with section 407 or who are family members of Government employees paid in accordance with a local compensation plan established under section 408) to appropriate salary classes in the Foreign Service Schedule.

(b)(1) The salary class to which a member of the Service is assigned under this section shall not be affected by the assignment of the member to a position classified under chapter 5.

(2) Except as authorized by subchapter I of chapter 35 of title 5, United States Code, changes in the salary class of a member of the Senior Foreign Service or a member of the Service assigned to a salary class in the Foreign Service Schedule shall be made only in accordance with chapter 6. The Secretary shall prescribe regulations (which shall be consistent with the relevant provisions of subchapter VI of chapter 53 of title 5, United States Code, and with the regulations prescribed to carry out such provisions) providing for retention of pay by members of the Service in cases in which reduction-in-force procedures are applied.

Sec. 405.[41] **Performance Pay.**—(a) Members of the Senior Foreign Service who are serving—

(1) under career or career candidate appointments, or

(2) under limited appointments with reemployment rights under section 310 as career appointees in the Senior Executive Service,

shall be eligible to compete for performance pay in accordance with this section. Performance pay shall be paid in a lump sum and shall be in addition to the basic salary prescribed under section 402 and any other award. The fact that a member of the Senior Foreign Service competing for performance pay would, as a result of the payment of such performance pay, receive compensation exceeding the compensation of any other member of the Service shall not preclude the award or its payment.

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[40] 22 U.S.C. 3964.

[41] 22 U.S.C. 3965.

(b) Awards of performance pay shall take into account the criteria established by the Office of Personnel Management for performance awards under section 5384 of title 5, United States Code, and rank awards under section 4507 of title 5, United States Code. Awards of performance pay under this section shall be subject to the following limitations:

(1) Not more than 50 percent of the members of the Senior Foreign Service may receive performance pay in any fiscal year.

(2) Except as provided in paragraph (3), performance pay for a member of the Senior Foreign Service may not exceed 20 percent of the annual rate of basic salary for that member.

(3) Not more than 6 percent of the members of the Senior Foreign Service may receive performance pay in any fiscal year in an amount which exceeds the percentage limitation specified in paragraph (2). Payments under this paragraph to a member of the Senior Foreign Service may not exceed $10,000 in any fiscal year, except that payments of up to $20,000 in any fiscal year may be made under this paragraph to up to 1 percent of the members of the Senior Foreign Service.

(4) The total amount of basic salary plus performance pay received in any fiscal year by any member of the Senior Foreign Service may not exceed the salary payable for level I of the Executive Schedule under section 5312 of title 5, United States Code, as in effect at the end of that fiscal year. Any amount which is not paid to a member of the Senior Foreign Service during a fiscal year because of this limitation shall be paid to that individual in a lump sum at the beginning of the following fiscal year. Any amount paid under this authority during a fiscal year shall be taken into account for purposes of applying the limitation in the first sentence of this subparagraph with respect to such fiscal year.[42]

(5) [43] The Secretary of State shall prescribe regulations, consistent with section 5582 of title 5, United States Code, under which payment under this section shall be made in the case of any individual whose death precludes payment under paragraph (4) of this subsection.

(c) The Secretary shall determine the amount of performance pay available under subsection (b)(2) each year for distribution among the members of the Senior Foreign Service and shall distribute performance pay to particular individuals on the basis of recommendations by selection boards established under section 602.

(d) The President may grant awards of performance pay under subsection (b)(3) on the basis of annual recommendations by the Secretary of State of members of the Senior Foreign Service who are nominated by their agencies as having performed especially meritorious or distinguished service. Recommendations by the Secretary of State under this subsection shall be made on the basis of recommendations by special interagency selection boards established by the Secretary of State for the purpose of reviewing and evaluating the nominations of agencies.

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[42] The last two sentences of paragraph (4) were added by sec. 175(b)(1) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204, 101 Stat. 1361).

[43] Paragraph (5) was added by sec. 175(b)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204, 101 Stat. 1361).

Sec. 406.[44] **Within-Class Salary Increases.**—(a) Any member of the Service receiving a salary under the Foreign Service Schedule shall be advanced to the next higher salary step in the member's class at the beginning of the first applicable pay period following the completion by that member of a period of—

(1) 52 calendar weeks of service in each of salary steps 1 through 9, and

(2) 104 calendar weeks of service in each of salary steps 10 through 13,

unless the performance of the member during that period is found in a review by a selection board established under section 602 to fall below the standards of performance for his or her salary class.

(b) The Secretary may grant, on the basis of especially meritorious service, to any member of the Service receiving an increase in salary under subsection (a), an additional salary increase to any higher step in the salary class in which the member is serving.

Sec. 407.[45] **Salaries for Foreign Service Personnel Abroad Who Perform Routine Duties.**—(a) The Secretary may establish salary rates at rates lower than those established for the Foreign Service Schedule for the Foreign Service personnel described in subsection (b). The rates established under this subsection may be no less than the then applicable minimum wage rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)).

(b) The Secretary may pay Foreign Service personnel who are recruited abroad, who are not available or are not qualified for assignment to another Foreign Service post, and who perform duties of a more routine nature than are generally performed by Foreign Service personnel assigned to class 9 in the Foreign Service Schedule, in accordance with the salary rates established under subsection (a).

Sec. 408.[46] **Local Compensation Plans.**—(a)(1) The Secretary shall establish compensation (including position classification) plans for foreign national employees of the Service, and for United States citizens employed in the Service abroad who are family members of Government employees. To the extent consistent with the public interest, each compensation plan shall be based upon prevailing wage rates and compensation practices (including participation in local social security plans) for corresponding types of positions in the locality of employment, except that such compensation plans shall provide for payment of wages to those family members of Government employees who are paid in accordance with such plans at a rate which is no less than the then applicable minimum wage rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)). Any compensation plan established under this section may include provision for (A) leaves of absence with pay for foreign national employees in accordance with prevailing law and employment practices in the locality of employment without regard to any limitation contained in section 6310 of title 5, United States Code, and (B) payments by the Government and foreign national employees to a trust or other fund in a financial institution in order to finance future benefits for foreign national employees, including provision for retention in the fund of accumulated interest for the benefit of covered foreign national employees.[47]

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[44] 22 U.S.C. 3966.
[45] 22 U.S.C. 3967.
[46] 22 U.S.C. 3968.

(2) The Secretary may make supplemental payments to any civil service annuitant who is a former foreign national employee of the Service (or who is receiving an annuity as a survivor of a former foreign national employee of the Service) in order to offset exchange rate losses, if the annuity being paid such annuitant is based on—

(A) a salary that was fixed in a foreign currency that has appreciated in value in terms of the United States dollar; and

(B) service in a country in which (as determined by the Secretary) the average retirement benefits being received by individuals who retire from competitive local organizations are superior to the local currency value of civil service annuities plus any other retirement benefits payable to foreign national employees who retired during similar time periods and after comparable careers with the Government.

(b) For the purpose of performing functions abroad, any agency or other Government establishment (including any establishment in the legislative or judicial branch) may administer employment programs for its employees who are foreign nationals or are family members of Government employees assigned abroad, in accordance with the applicable provisions of this Act.

(c) The Secretary of State may prescribe regulations governing the establishment and administration of local compensation plans under this section by all agencies and other Government establishments.

Sec. 409.[48] Salaries of Consular Agents.—The Secretary of State shall establish the salary rate for each consular agent. Such salary rate shall be established after taking into account the workload of the consular agency and the prevailing wage rates in the locality where the agency is located, except that, in the case of a consular agent who is a citizen of the United States, the salary rate may not be less than the then applicable minimum wage rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)).

Sec. 410.[49] Compensation for Imprisoned Foreign National Employees.—(a) The head of any agency or other Government establishment (including any in the legislative or judicial branch) may compensate any current or former foreign national employee, or any foreign national who is or was employed under a personal services contract, who is or has been imprisoned by a foreign government if the Secretary of State (or, in the case of a foreign national employed by the Central Intelligence Agency, the Director of Central Intelligence) determines that such imprisonment is the result of the employment of the foreign national by the United States. Such compensation may not exceed the amount that the agency head determines approximates the salary and other benefits to which the foreign national would have been entitled had he or she been employed during the period of such imprisonment. Such compensation may be paid under such terms and conditions as the Secretary of State deems appropriate. For purposes of this section, an agency head shall have the same powers with respect to imprisoned foreign nationals who are or were employed by the agency as an agency head has under subchapter VII of chapter 55 of title 5, United States Code, to the extent that such powers are consistent with this section.

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[47] Sec. 127(a) of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98-164, 97 Stat. 1026) added the subpara. designation "(A)" and the text of a new subpara. (B).

[48] 22 U.S.C. 3969.

[49] 22 U.S.C. 3970.

(b) Any period of imprisonment of a current or former foreign national employee which is compensable under this section shall be considered for purposes of any other employee benefit to be a period of employment by the Government, except that a period of imprisonment shall not be creditable—

(1) for purposes of subchapter III of chapter 83 of title 5, United States Code, unless it is expressly creditable under that subchapter; or

(2) for purposes of subchapter I of chapter 81 of title 5, United States Code, unless the individual was employed by the Government at the time of his or her imprisonment.

(c) No compensation or other benefit shall be awarded under this section unless a claim therefor is filed within 3 years after—

(1) the termination of the period of imprisonment giving rise to the claim, or

(2) the date of the claimant's first opportunity thereafter to file such a claim, as determined by the appropriate agency head.

(d) The Secretary of State may prescribe regulations governing payments under this section by all agencies and other Government establishments.

Sec. 411.[50] **Temporary Service as Principal Officer.**—For such time (in excess of such minimum period as the Secretary of State may establish) as any member of the Service is temporarily in charge of a Foreign Service post during the absence or incapacity of the principal officer, that member shall receive, in addition to the basic salary paid to the member and notwithstanding sections 5535 and 5536 of title 5, United States Code, an amount equal to that portion (which the Secretary of State may determine to be appropriate) of the difference between such salary and the basic salary provided for the principal officer, or, if there is no principal officer, for the former principal officer.

Sec. 412.[51] **Special Differentials.**—(a) The Secretary may pay special differentials, in addition to compensation otherwise authorized, to Foreign Service officers who are required because of the nature of their assignments to perform additional work on a regular basis in substantial excess of normal requirements.

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[50] 22 U.S.C. 3971.

[51] 22 U.S.C. 3972.

(b) Before implementing any proposal to limit either the number of Foreign Service officers who may receive a special differential under subsection (a) or the amounts of such special differentials, the Secretary shall submit such proposal to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.

(c) Nothing in this Act, or in subchapter V of chapter 55 of title 5, United States Code, shall preclude the granting of compensatory time off for Foreign Service officers.

Sec. 413.[52] **Death Gratuity.**—(a) The Secretary may provide for payment of a gratuity to the surviving dependents of any Foreign Service employee who dies as a result of injuries sustained in the performance of duty abroad, in an amount equal to one year's salary at the time of death. Any death gratuity payment made under this section shall be held to have been a gift and shall be in addition to any other benefit payable from any source.

(b) A death gratuity payment shall be made under this section only if the survivor entitled to payment under subsection (c) is entitled to elect monthly compensation under section 8133 of title 5, United States Code, because the death resulted from an injury (excluding a disease proximately caused by the employment) sustained in the performance of duty, without regard to whether such survivor elects to waive compensation under such section 8133.

(c) A death gratuity payment under this section shall be made as follows:

(1) First, to the widow or widower.

(2) Second, to the child, or children in equal shares, if there is no widow or widower.

(3) Third, to the dependent parent, or dependent parents in equal shares, if there is no widow, widower, or child.

If there is no survivor entitled to payment under this subsection, no payment shall be made.

(d) As used in this section—

(1) the term "Foreign Service employee" means any member of the Service or United States representative to an international organization or commission; and

(2) each of the terms "widow", "widower", "child", and "parent" shall have the same meaning given each such term by section 8101 of title 5, United States Code.

CHAPTER 5—CLASSIFICATION OF POSITIONS AND ASSIGNMENTS

Sec. 501.[53] **Classification of Positions.**—The Secretary shall designate and classify positions in the Department and at Foreign Service posts which are to be occupied by members of the Service (other than by chiefs of mission and ambassadors at large). Positions designated under this section are excepted from the competitive service. Position classifications under this section shall be established, without regard to chapter 51 of title 5, United States Code, in relation to the salaries established under chapter 4. In classifying positions at Foreign Service posts abroad, the Secretary shall give appropriate weight to job factors relating to service abroad and to the compensation practices applicable to United States citizens employed abroad by United States corporations.

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[52] 22 U.S.C. 3973.

[53] 22 U.S.C. 3981.

Sec. 502.[54] **Assignments to Foreign Service Positions.**—(a)(1) The Secretary (with the concurrence of the agency concerned) may assign a member of the Service to any position classified under section 501 in which that member is eligible to serve (other than as chief of mission or ambassador at large), and may assign a member from one such position to another such position as the needs of the Service may require.

(2) In making assignments under paragraph (1), the Secretary shall assure that a member of the Service is not assigned to a position at a post in a particular geographic area exclusively on the basis of the race, ethnicity, or religion of that member.

(b) Positions designated as Foreign Service positions normally shall be filled by the assignment of members of the Service to those positions. Subject to that limitation—

(1) Foreign Service positions may be filled by the assignment for specified tours of duty of employees of the Department and, under interagency agreements, employees of other agencies; and

(2) Senior Foreign Service positions may also be filled by other members of the Service.

(c) The President may assign a career member of the Service to serve as chargé d'affaires or otherwise as the head of a mission (or as the head of a United States office abroad which is designated under section 102(a)(3) by the Secretary of State as diplomatic in nature) for such period as the public interest may require.

(d) [55] The Secretary of State, in conjunction with the heads of the other agencies utilizing the Foreign Service personnel system, shall implement policies and procedures to insure that Foreign Service officers and members of the Senior Foreign Service of all agencies are able to compete for chief of mission positions and have opportunities on an equal basis to compete for assignments outside their areas of specialization.

Sec. 503.[56] **Assignments to Agencies, International Organizations, and Other Bodies.**—(a) The Secretary may (with the concurrence of the agency, organization, or other body concerned) assign a member of the Service for duty—

(1) in a non-Foreign Service (including Senior Executive Service) position in the Department or another agency, or with an international organization, international commission, or other international body;

(2) with a domestic or international trade, labor, agricultural, scientific, or other conference, congress, or gathering;

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[54] 22 U.S.C. 3982.

[55] Sec. 130(b) of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98-164, 97 Stat. 1027) added subsec. (d). Sec. 130(c) of Public Law 98-164 also required a report to Congress from the Secretary of State describing policies and procedures adopted pursuant to subsec. (d) of this section (report due November 22, 1984).

[56] 22 U.S.C. 3983.

(3) for special instruction, training, or orientation at or with a public or private organization; and

(4) in the United States (or in any territory or possession of the United States or in the Commonwealth of Puerto Rico), with a State or local government, a public or private nonprofit organization (including an educational institution), or a Member or office of the Congress.

(b)(1) The salary of a member of the Service assigned under this section shall be the higher of the salary which that member would receive but for the assignment under this section or the salary of the position to which that member is assigned.

(2) The salary of a member of the Service assigned under this section shall be paid from appropriations made available for the payment of salaries and expenses of the Service. Such appropriations may be reimbursed for all or any part of the costs of salaries and other benefits for members assigned under this section.

(3) A member of the Service assigned under subsection (a)(4) to a Member or office of the Congress shall be deemed to be an employee of the House of Representatives or the Senate, as the case may be, for purposes of payment of travel and other expenses.

(c) Assignments under this section may not exceed four years of continuous service for any member of the Service unless the Secretary approves an extension of such period for that member because of special circumstances.

Sec. 504.[57] **Service in the United States and Abroad.**—(a) Career members of the Service shall be obligated to serve abroad and shall be expected to serve abroad for substantial portions of their careers. The Secretary shall establish by regulation limitations upon assignments of members of the Service within the United States. A member of the Service may not be assigned to duty within the United States for any period of continuous service exceeding eight years unless the Secretary approves an extension of such period for that member because of special circumstances.

(b) Consistent with the needs of the Service, the Secretary shall seek to assign each career member of the Service who is a citizen of the United States to duty within the United States at least once during each period of fifteen years that the member is in the Service.

(c) The Secretary may grant a sabbatical to a career member of the Senior Foreign Service for not to exceed eleven months in order to permit the member to engage in study or uncompensated work experience which will contribute to the development and effectiveness of the member. A sabbatical may be granted under this subsection under conditions specified by the Secretary in light of the provisions of section 3396(c) of title 5, United States Code, which apply to sabbaticals granted to members of the Senior Executive Service.

Sec. 505.[58] **Temporary Details.**—A period of duty of not more than six months in duration by a member of the Service shall be considered a temporary detail and shall not be considered an assignment within the meaning of this chapter.

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[57] 22 U.S.C. 3984.

[58] 22 U.S.C. 3985.

CHAPTER 6—PROMOTION AND RETENTION

Sec. 601.[59] **Promotions.**—(a) Career members of the Senior Foreign Service are promoted by appointment under section 302(a) to a higher salary class in the Senior Foreign Service. Members of the Senior Foreign Service serving under career candidate appointments or noncareer appointments are promoted by appointment under section 303 to a higher salary class in the Senior Foreign Service. Foreign Service officers, and Foreign Service personnel who are assigned to a class in the Foreign Service Schedule, are promoted by appointment under section 302(a) as career members of the Senior Foreign Service or by assignment under section 404 to a higher salary class in the Foreign Service Schedule.

(b) Except as provided in section 606(a), promotions of—

(1) members of the Senior Foreign Service, and

(2) members of the Service assigned to a salary class in the Foreign Service Schedule (including promotions of such members into the Senior Foreign Service).

shall be based upon the recommendations and rankings of selection boards established under section 602, except that the Secretary may by regulation specify categories of career members, and categories of career candidates, assigned to salary classes in the Foreign Service Schedule who may receive promotions on the basis of satisfactory performance.

(c)(1) Promotions into the Senior Foreign Service shall be recommended by selection boards only from among career members of the Service assigned to class 1 in the Foreign Service Schedule who request that they be considered for promotion into the Senior Foreign Service. The Secretary shall prescribe the length of the period after such a request is made (within any applicable time in class limitation established under section 607(a)) during which such members may be considered by selection boards for entry into the Senior Foreign Service. A request by a member for consideration for promotion into the Senior Foreign Service under this subsection may be withdrawn by the member, but if it is withdrawn, that member may not thereafter request consideration for promotion into the Senior Foreign Service.

(2) Decisions by the Secretary on the numbers of individuals to be promoted into and retained in the Senior Foreign Service shall be based upon a systematic long-term projection of personnel flows and needs designed to provide—

(A) a regular, predictable flow of recruitment in the Service;

(B) effective career development patterns to meet the needs of the Service; and

(C) a regular, predictable flow of talent upward through the ranks and into the Senior Foreign Service.

(3) The affidavit requirements of sections 3332 and 3333(a) of title 5, United States Code, shall not apply with respect to a member of the Service who has previously complied with those requirements and who subsequently is promoted by appointment to any class in the Senior Foreign Service without a break in service.

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[59] 22 U.S.C. 4001.

(4) [60] Not later than March 1 of each year, the Secretary of State shall submit a report to the Speaker of the House of Representatives and to the Committee on Foreign Relations of the Senate which shall—

(A) describe the steps taken and planned in furtherance of—

(i) maximum compatibility among agencies utilizing the Foreign Service personnel system, as provided for in section 203, and

(ii) the development of uniform policies and procedures and consolidated personnel functions, as provided for in section 204;

(B) specify the upper and lower limits planned by each such agency for recruitment, advancement, and retention of members of the Service, as provided for in section 601(c)(2), including, with respect to each of the relevant promotion competition groups, the projected ranges of rates of appointment, promotion, and attrition over each of the next 5 fiscal years, as well as a comparison of such projections with the projections for the preceding year and with actual rates of appointment, promotion, and attrition, including a full explanation of any deviations from projections reported in the preceding year; and

(C) specify the numbers of members of the Service who are assigned to positions classified under section 501 which are more than one grade higher or lower than the personal rank of the member.

Sec. 602.[61] **Selection Boards.**—(a) The Secretary shall establish selection boards to evaluate the performance of members of the Senior Foreign Service and members of the Service assigned to a salary class in the Foreign Service Schedule. Selection boards shall, in accordance with precepts prescribed by the Secretary, rank the members of a salary class on the basis of relative performance and may make recommendations for—

(1) promotions in accordance with section 601;

(2) awards of performance pay under section 405(c);

(3) denials of within-class step increases under section 406(a);

(4) offer or renewal of limited career extensions under section 607(b); and

(5) such other actions as the Secretary may prescribe by regulation.

(b) All selection boards established under this section shall include public members. The Secretary shall assure that a substantial number of women and members of minority groups are appointed to each selection board established under this section.

Sec. 603.[62] **Basis for Selection Board Review.**—(a) Recommendations and rankings by selection boards shall be based upon records of the character, ability, conduct, quality of work, industry, experience, dependability, usefulness, and general performance of members of the Service. Such records may include reports prepared by or on behalf of the Inspector General of the Department of State and the Foreign Service, performance evaluation reports of supervisors, records of commendations, reports of language test scores from the Foreign Service Institute, awards, reprimands, and other disciplinary actions, and (with respect to members of the Senior Foreign Service) records of current and prospective assignments.

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[60] Paragraph (4) was added by sec. 185(b) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204, 101 Stat. 1366).

[61] 22 U.S.C. 4002.

[62] 22 U.S.C. 4003.

(b) Precepts for selection boards shall include a description of the needs of the Service for performance requirements, skills, and qualities, which are to be considered in recommendations for promotion. The precepts for selection boards responsible for recommending promotions into and within the Senior Foreign Service shall emphasize performance which demonstrates the strong policy formulation capabilities, executive leadership qualities, and highly developed functional and area expertise, which are required for the Senior Foreign Service.

Sec. 604.[63] **Confidentiality of Records.**—The records described in section 603(a) shall be maintained in accordance with regulations prescribed by the Secretary. Except to the extent that they pertain to the receipt, disbursement, and accounting for public funds, such records shall be confidential and subject to inspection only by the President, the Secretary, such employees of the Government as may be authorized by law or assigned by the Secretary to work on such records, the legislative and appropriations committees of the Congress charged with considering legislation and appropriations for the Service, and representatives duly authorized by such committees. Access to such records relating to a member of the Service shall be granted to such member, upon written request.

Sec. 605.[64] **Implementation of Selection Board Recommendations.**—(a) Recommendations for promotion made by selection boards shall be submitted to the Secretary in rank order by salary class or in rank order by specialization within a salary class. The Secretary shall make promotions and, with respect to career appointments into or within the Senior Foreign Service, shall make recommendations to the President for promotions, in accordance with the rankings of the selection boards.

(b) Notwithstanding subsection (a), in special circumstances set forth by regulation, the Secretary may remove the name of an individual from the rank order list submitted by a selection board or delay the promotion of an individual named in such a list.

Sec. 606.[65] **Other Bases for Increasing Pay.**—(a) The Secretary may pursuant to a recommendation of the Foreign Service Grievance Board, an equal employment opportunity appeals examiner, or the Special Counsel of the Merit Systems Protection Board, and shall pursuant to a decision or order of the Merit Systems Protection Board—

(1) recommend to the President a promotion of a member of the Service under section 302(a);

(2) promote a member of the Service under section 303;

(3) grant performance pay to a member of the Senior Foreign Service under section 405(c); or

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[63] 22 U.S.C. 4004.

[64] 22 U.S.C. 4005.

[65] 22 U.S.C. 4006.

(4) grant a within-class salary increase under section 406 to a member of the Service who is assigned to a salary class in the Foreign Service Schedule.

(b) In implementing subsection (a) of this section and in cases in which the Secretary has exercised the authority of section 605(b), the Secretary may, in special circumstances set forth by regulation, make retroactive promotions, grant performance pay, make retroactive within-class salary increases, and recommend retroactive promotions by the President.

Sec. 607.[66] **Retirement for Expiration of Time in Class.**—(a)(1) The Secretary shall, by regulation, establish maximum time in class limitations for—

(A) career members of the Senior Foreign Service,

(B) Foreign Service officers, and

(C) other career members of the Service who are in such occupational categories as may be designated by the Secretary and who are assigned to salary classes in the Foreign Service Schedule to which Foreign Service officers may also be assigned.

(2) Maximum time in class limitations under this subsection (which may not be less than 3 years for career members of the Senior Foreign Service) may apply with respect to the time a member may remain in a single salary class or in a combination of salary classes.

(3) The Secretary may, by regulation, increase or decrease any maximum time in class established under this subsection as the needs of the Service may require. If maximum time in class is decreased, the Secretary shall provide any member of the Service who is in a category and salary class subject to the new time in class limitation an opportunity to remain in class (notwithstanding the new limitations) for a period which is at least as long as the shorter of—

(A) the period which the member would have been permitted to remain in class but for the decrease in maximum time in class, or

(B) such minimum period as the Secretary determines is necessary to provide members of the Service who are in the same category and salary class as that member a reasonable opportunity to be promoted into the next higher class or combination of classes, as the case may be.

(b) members of the Service whose maximum time in class under subsection (a) expires—

(1) after they have attained the highest salary class for their respective occupational categories, or

(2) in the case of members of the Senior Foreign Service, while they are in salary classes designated by the Secretary,

may continue to serve only under limited extensions of their career appointment. Such limited extensions may not exceed 5 years in duration and may be granted and renewed by the Secretary in accordance with the recommendations of selection boards established under section 602. Members of the Service serving under such limited career extensions shall continue to be career members of the Service.

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[66] 22 U.S.C. 4007.

(c) Any member of the Service—

(1) whose maximum time in class under subsection (a) expires and who is not promoted to a higher class or combination of classes, as the case may be, or

(2) whose limited career extension under subsection (b) expires and is not renewed,

shall be retired from the Service and receive benefits in accordance with section 609, subject to any career extension under subsection (d) of this section.

(d) Notwithstanding any other provision of this section—

(1) the career appointment of a member of the Service whose maximum time in class under subsection (a) expires, or whose limited career extension under subsection (b) expires, while that member is occupying a position to which he or she was appointed by the President, by and with the advice and consent of the Senate, shall be extended until the appointment to that position is terminated; and

(2) If the Secretary determines it to be in the public interest, the Secretary may extend temporarily the career appointment of a career member of the Service whose maximum time in class or limited career extension expires, but in no case may any extension under this paragraph exceed one year and such extensions may be granted only in special circumstances.

Sec. 608.[67] **Retirement Based on Relative Performance.**—(a) The Secretary shall prescribe regulations concerning the standards of performance to be met by career members of the Service who are citizens of the United States. Whenever a selection board review indicates that the performance of such a career member of the Service may not meet the standards of performance for his or her class, the Secretary shall provide for administrative review of the performance of the member. The review shall include an opportunity for the member to be heard.

(b) In any case where the administrative review conducted under subsection (a) substantiates that a career member of the Service has failed to meet the standards of performance for his or her class, the member shall be retired from the Service and receive benefits in accordance with section 609.

Sec. 609.[68] **Retirement Benefits.**—(a) A member of the Service—

(1) who is retired under section 607(c)(2); or

(2) who is retired under section 607(c)(1) or 608(b)—

(A) after becoming eligible for voluntary retirement under section 811, or

(B) from the Senior Foreign Service or while assigned to class in the Foreign Service Schedule,

shall receive retirement benefits in accordance with section 806.

(b) Any member of the Service (other than a member to whom subsection (a) applies) who is retired under section 607(c)(1) or 608(b) shall receive—

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[67] 22 U.S.C. 4008.

[68] 22 U.S.C. 4009.

(1) one-twelfth of a year's salary at his or her then current salary rate for each year of service and proportionately for a fraction of a year, but not exceeding a total of one year's salary at his or her then current salary rate, payable without interest from the Foreign Service Retirement and Disability Fund in 3 equal installments, such installments to be paid on January 1 of each of the first 3 calendar years beginning after the retirement of the member (except that in special cases, the Secretary of State may accelerate or combine such installments); and

(2) a refund as provided in section 815 of the contributions made by the members to the Foreign Service Retirement and Disability Fund, except that in lieu of such refund a member who has at least 5 years of service credit toward retirement under the Foreign Service Retirement and Disability System (excluding military and naval service) may elect to receive an annuity, computed under section 806, commencing at age 60.

In the event that a member of the Service has elected to receive retirement benefits under paragraph (2) and dies before reaching age 60, his or her death shall be considered a death in service within the meaning of section 809.

Sec. 610.[69] **Separation for Cause.**—(a)(1) The Secretary may separate any member from the Service for such cause as will promote the efficiency of the Service.

(2) A member of the Service who is a member of the Senior Foreign Service or is assigned to a salary class in the Foreign Service Schedule and who either (A) is serving under a career appointment, or (B) if separation is to be by reason of misconduct, is serving under a limited appointment, shall not be separated from the Service under this section until the member has been granted a hearing before the Foreign Service Grievance Board and the cause for separation established at such hearing, unless the member waives in writing the right to a hearing. If such cause is not established at such hearing, the Grievance Board shall have the authority to direct the Department to pay reasonable attorneys fees to the extent and in the manner provided by section 1107(b)(5) of this Act.[70] The hearing procedures applicable to grievances under section 1106 and shall be in lieu of any other administrative procedure authorized or required by this or any other law.

(b) Any participant in the Foreign Service Retirement and Disability System who is separated under subsection (a) shall be entitled to receive a refund as provided in section 815 of the contributions made by the participant to the Foreign Service Retirement and Disability Fund. Except in cases where the Secretary determines that separation was based in whole or in part on the ground of disloyalty to the United States, a participant who has at least 5 years of service credit toward retirement under the Foreign Service Retirement and Disability System (excluding military and naval service) may elect, in lieu of such refund, to an annuity, computed under section 806, commencing at age 60.

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[69] 22 U.S.C. 4010.

[70] This sentence was added by sec. 181(d) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204, 101 Stat. 1364). Sec. 181(e) of the same Act provided that the amendment not apply with respect to any grievance in which the Board has issued a final decision pursuant to sec. 1107 of the Foreign Service Act of 1980 before its enactment.

Sec. 611.[71] **Termination of Limited Appointments.**—Except as provided in section 610(a)(2), the Secretary may terminate at any time the appointment of any member of the Service serving under a limited appointment who is in the Senior Foreign Service, who is assigned to a salary class in the Foreign Service Schedule, or who is a family member of a Government employee serving under a local compensation plan established under section 408.

Sec. 612.[72] **Termination of Appointments of Consular Agents and Foreign National Employees.**—(a) The Secretary of State may terminate at any time the appointment of any consular agent in light of the criteria and procedures normally followed in the locality in similar circumstances.

(b) The Secretary may terminate at any time the appointment of any foreign national employee in light of the criteria and procedures normally followed in the locality in similar circumstances.

Sec. 613.[73] **Foreign Service Awards.**—The President shall establish a system of awards to confer appropriate recognition of outstanding contributions to the Nation by members of the Service. The awards system established under this section shall provide for presentation by the President and by the Secretary of medals or other suitable commendations for performance in the course of or beyond the call of duty which involves distinguished, meritorious service to the Nation, including extraordinary valor in the face of danger to life or health.

CHAPTER 7—FOREIGN SERVICE INSTITUTE, CAREER DEVELOPMENT, TRAINING, AND ORIENTATION

Sec. 701.[74] **Foreign Service Institute.**—(a) The Secretary of State shall maintain and operate the Foreign Service Institute (hereinafter in this chapter referred to as the "Institute"), originally established under section 701 of the Foreign Service Act of 1946, in order to promote career development within the Service and to provide necessary training and instruction in the field of foreign relations to members of the Service and to employees of the Department and of other agencies. The Institute shall be headed by a Director, who shall be appointed by the Secretary of State.

(b) To the extent practicable, the Secretary of State shall provide training under this chapter which meets the needs of all agencies, and other agencies shall avoid duplicating the facilities and training provided by the Secretary of State through the Institute and otherwise.

(c)[75] Training and instruction may be provided at the Institute for not to exceed sixty citizens of the Trust Territory of the Pacific Islands in order to prepare them to serve as members of the foreign services of the Federated States of Micronesia, the Marshall

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[71] 22 U.S.C. 4011.

[72] 22 U.S.C. 4012.

[73] 22 U.S.C. 4013.

[74] 22 U.S.C. 4021.

[75] Sec. 126 of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98-164, 97 Stat. 1026) added subsec. (c).

Islands, and Palau. The authority of this subsection shall expire when the Compact of Free Association is approved by the Congress.

Sec. 702.[76] **Foreign Language Requirements.**—(a) The Secretary shall establish foreign language proficiency requirements for members of the Service who are to be assigned abroad in order that Foreign Service posts abroad will be staffed by individuals having a useful knowledge of the language or dialect common to the country in which the post is located.

(b) The Secretary of State shall arrange for appropriate language training of members of the Service by the Institute or otherwise in order to assist in meeting the requirements established under subsection (a).

Sec. 703.[77] **Career Development.**—(a) The Secretary shall establish a professional development program to assure that members of the Service obtain the skills and knowledge required at the various stages of their careers. With regard to Foreign Service officers, primary attention shall be given to training for career candidate officers and for midcareer officers, both after achieving tenure and as they approach eligibility for entry to the Senior Foreign Service, to enhance and broaden their qualifications for more senior levels of responsibility in the Service. Training for other members of the Service shall emphasize programs designed to enhance their particular skills and expert knowledge, including development of the management skills appropriate to their occupational categories.

(b) Junior Foreign Service officer training shall be directed primarily toward providing expert knowledge in the basic functions of analysis and reporting as well as in consular, administrative, and linguistic skills relevant to the full range of future job assignments. Midcareer training shall be directed primarily toward development and perfection of management, functional, negotiating, and policy development skills to prepare the officers progressively for more senior levels of responsibility.

(c) At each stage the program of professional development should be designed to provide members of the Service with the opportunity to acquire skills and knowledge relevant to clearly established professional standards of expected performance. Career candidates should satisfactorily complete candidate training prior to attainment of career status. Members of the Service should satisfactorily complete midcareer training before appointment to the Senior Foreign Service.

(d) In formulating programs under this section, the Secretary should establish a system to provide, insofar as possible, credit toward university degrees for successful completion of courses comparable to graduate-level, university courses.

(e) Training provided under this section shall be conducted by the Department and by other governmental and nongovernmental institutions as the Secretary may consider appropriate.

(f)[78] * * * [Repealed—1987]

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[76] 22 U.S.C. 4022.

[77] 22 U.S.C. 4023.

[78] Subsec. (f) was repealed by sec. 185(c) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204, 101 Stat. 1366). It required that the Secretary of State report annually on the status of the professional development program.

Sec. 704.[79] **Training Authorities.**—(a) In the exercise of functions under this chapter, the Secretary of State may—

(1) provide for the general nature of the training and instruction to be furnished by the Institute, including functional and geographic area specializations;

(2) correlate training and instruction furnished by the Institute with courses given at other Government institutions and at private institutions which furnish training and instruction useful in the field of foreign affairs;

(3) encourage and foster programs complementary to those furnished by the Institute, including through grants and other gratuitous assistance to nonprofit institutions cooperating in any of the programs under this chapter;

(4)(A) employ in accordance with the civil service laws such personnel as may be necessary to carry out the provisions of this chapter, and

(B) if and to the extent determined to be necessary by the Secretary of State, obtain without regard to the provisions of law governing appointments in the competitive service, by appointment or contract (subject to the availability of appropriations), the services of individuals to serve as language instructors, linguists, and other academic and training specialists (including, in the absence of suitably qualified United States citizens, qualified individuals who are not citizens of the United States); and

(5) acquire such real and personal property and equipment as may be necessary for the establishment, maintenance, and operation of the facilities necessary to carry out the provisions of this chapter without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5) and section 302 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 252).

(b) In furtherance of the objectives of this Act, the Secretary may—

(1) pay the tuition and other expenses of members of the Service and employees of the Department who are assigned or detailed in accordance with law for special instruction or training, including orientation, language, and career development training;

(2) pay the salary (excluding premium pay or any special differential under section 412) of members of the Service selected and assigned for training; and

(3) provide special monetary or other incentives to encourage members of the Service to acquire or retain proficiency in foreign languages or special abilities needed in the Service.

(c) The Secretary may provide to family members of members of the Service or of employees of the Department or other agencies, in anticipation of their assignment abroad or while abroad—

(1) appropriate orientation and language training; and

(2) functional training for anticipated prospective employment under section 311.

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[79] 22 U.S.C. 4024.

Sec. 705.[80] **Training Grants.**—(a) To facilitate training provided to members of families of Government employees under this chapter, the Secretary may make grants (by advance payment or by reimbursement) to family members attending approved programs of study. No such grant may exceed the amount actually expended for necessary costs incurred in conjunction with such attendance.

(b) If a member of the Service who is assigned abroad, or a member of his or her family, is unable to participate in language training furnished by the Government through the Institute or otherwise, the Secretary may compensate that individual for all or part of the costs of language training, related to the assignment abroad, which is undertaken at a public or private institution.

Sec. 706.[81] **Career Counseling.**—(a) In order to facilitate their transition from the Service, the Secretary may provide (by contract or otherwise, subject to the availability of appropriations) professional career counseling, advice, and placement assistance to members of the Service, and to former members of the Service who were assigned to receive counseling and assistance under this subsection before they were separated from the Service, other than those separated for cause.

(b)(1) The Secretary may facilitate the employment of spouses of members of the Service by—

(A) providing regular career counseling for such spouses;

(B) maintaining a centralized system for cataloging their skills and the various governmental and nongovernmental employment opportunities available to them; and

(C) otherwise assisting them in obtaining employment.

(2) The Secretary shall establish a family liaison office to carry out this subsection and such other functions as the Secretary may determine.

CHAPTER 8—FOREIGN SERVICE RETIREMENT AND DISABILITY

SUBCHAPTER I—FOREIGN SERVICE RETIREMENT AND DISABILITY SYSTEM [82]

Sec. 801.[83] **Administration of the System.**—In accordance with such regulations as the President may prescribe, the Secretary of State shall administer the Foreign Service Retirement and Disability System (hereinafter in this subchapter [84] referred to as the "System"), originally established pursuant to section 18 of the Act of May 24, 1924 (43 Stat. 144).

Sec. 802.[85] **Maintenance of the Fund.**—The Secretary of the Treasury shall maintain the special fund known as the Foreign Service Retirement and Disability Fund (hereinafter in this subchapter [84] referred to as the "Fund"), originally created by section 18 of the Act of May 24, 1924 (43 Stat. 144).

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[80] 22 U.S.C. 4025.

[81] 22 U.S.C. 4026.

[82] See also the retained provisions of the Foreign Service Retirement Amendments of 1976 (page 405). The heading for subchapter I was added by sec. 402(a)(1) of Public Law 99-335 (100 Stat. 609).

[83] 22 U.S.C. 4041.

[84] Section 402(a) and Section 402(a)(3) of Public Law 99-335 (100 Stat. 609), substituted the words "this subchapter" in lieu of "this chapter" throughout chapter 8, and inserted the words "under this subchapter" after "payable from the Fund" each time it appears.

[85] 22 U.S.C. 4042.

Sec. 803.[86] **Participants.**—(a) Except as provided in subsection (d),[87] the following members of the Service (hereinafter in this subchapter [84] referred to as "participants") shall be entitled to the benefits of the System:

(1) Every member who is serving under a career appointment or as a career candidate under section 306—

(A) in the Senior Foreign Service, or

(B) assigned to a salary class in the Foreign Service Schedule.

(2) Every chief of mission, who is not a participant under paragraph (1), who—

(A) has served as chief of mission for an aggregate period of 20 years or more, and

(B) has paid into the Fund a special contribution for each year of such service in accordance with section 805.

(b) Any otherwise eligible member of the Service who is appointed to a position in the executive branch by the President, by and with the advice and consent of the Senate, or by the President alone, shall not by virtue of the acceptance of such appointment cease to be eligible to participate in the System.

(c) In addition to the individuals who are participants in the System under subsection (a), any individual who was appointed as a Binational Center Grantee and who completed at least 5 years of satisfactory service as such a grantee or under any other appointment under the Foreign Service Act of 1946 may become a participant in the System, and shall receive credit for such service if an appropriate special contribution is made to the Fund in accordance with section 805(d) or (f).

(d) [88] An individual subject to the Foreign Service Pension System (described in subchapter II) is not a participant in this System.

Sec. 804.[89] **Definitions.**—As used in this subchapter, unless otherwise specified, the term—

(1) "annuitant" means any individual, including a former participant or survivor, who meets all requirements for an annuity from the Fund under this or any other Act and who has filed a claim for such annuity;

(2) "child" means an individual—

(A) who—

(i) is an offspring or adopted child of the participant,

(ii) is a stepchild or recognized natural child of the participant and who received more than one-half support from the participant, or

(iii) lived with the participant, for whom a petition of adoption was filed by the participant, and who is adopted by the surviving spouse of the participant after the death of the participant;

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[86] 22 U.S.C. 4043.

[87] The text of subsec. (a) to this point was added by sec. 414(1) of Public Law 99-335 (100 Stat. 614).

[88] Subsec. (d) was added by sec. 414(2) of Public Law 99-335 (100 Stat. 614).

[89] 22 U.S.C. 4044.

(B) who is unmarried; and

(C) who—

(i) is under the age of 18 years,

(ii) is a student under the age of 22 years (for purposes of this clause, an individual whose 22d birthday occurs before July 1 or after August 31 of the calendar year in which that birthday occurs, and while the individual is a student, is deemed to become 22 years of age on the first July 1 which occurs after that birthday), or

(iii) is incapable of self-support because of a physical or mental disability which was incurred before the individual reached the age of 18 years;

(3) "court" means any court of any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Northern Mariana Islands, or the Virgin Islands, and any Indian court as defined by section 201(3) of the Act entitled 'An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes', approved April 11, 1968 (25 U.S.C. 1301(3); 82 Stat. 77);[90]

(4) "court order" means any court decree of divorce or annulment, or any court order or court approved property settlement agreement incident to any court decree of divorce or annulment;

(5) "Foreign Service normal cost" means the level percentage of payroll required to be deposited in the Fund to meet the cost of benefits payable under the System (computed in accordance with generally accepted actuarial practice on an entry-age basis) less the value of retirement benefits earned under another retirement system for Government employees and less the cost of credit allowed for military and naval service;

(6) "former spouse" means a former wife or husband of a participant or former participant who was married to such participant for not less than 10 years during periods of service by that participant which are creditable under section 816;

(7) "Fund balance" means the sum of—

(A) the investments of the Fund calculated at par value, plus

(B) the cash balance of the Fund on the books of the Treasury;

(8) "lump-sum credit" means the compulsory and special contributions to the credit of a participant or former participant in the Fund plus interest on such contributions at 4 percent a year compounded annually to December 31, 1976, and after such date, for a participant who separates from the Service after completing at least 1 year of civilian service and before completing 5 years of such service, at the rate of 3 percent per year to the date of separation (except that interest shall not be paid for a fractional part of a month in the total service or on compulsory and special contributions from an annuitant for

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[90] The text from this point to the end of subsec. (3) was substituted in lieu of the language "of the District of Columbia" by sec. 403 of Public Law 99-335 (100 Stat. 609).

recall service or other service performed after the date of separation which forms the basis for annuity);

(9) "military and naval service" means honorable active service—

(A) in the Armed Forces of the United States,

(B) in the Regular or Reserve Corps of the Public Health Service after June 30, 1960, or

(C) as a commissioned officer of the National Oceanic and Atmospheric Administration, or a predecessor organization, after June 30, 1961.

but does not include service in the National Guard except when ordered to active duty in the service of the United States;

(10) "pro rata share", in the case of any former spouse of any participant or former participant, means a percentage which is equal to the percentage that (A) the number of years during which the former spouse was married to the participant during the creditable service (creditable under subchapter I or II) [91] of that participant is of (B) the total number of years of such creditable service (creditable under subchapter I or II) [91];

(11) "spousal agreement" means any written agreement between—

(A) a participant or former participant; and

(B) his or her spouse or former spouse;

(12) "student" means a child regularly pursuing a full-time course of study or training in residence in a high school, trade school, technical or vocational institute, junior college, college, university, or comparable recognized educational institution (for purposes of this paragraph, a child who is a student shall not be deemed to have ceased to be a student during any period between school years, semesters, or terms if the period of nonattendance does not exceed 5 calendar months and if the child shows to the satisfaction of the Secretary of State that he or she has a bona fide intention of continuing to pursue his or her course of study during the school year, semester, or term immediately following such period);

(13) "surviving spouse" means the surviving wife or husband of a participant or annuitant who, in the case of a death in service or marriage after retirement, was married to the participant or annuitant for at least one year immediately preceding his or her death or is a parent of a child born of the marriage; and

(14) "unfunded liability" means the estimated excess of the present value of all benefits payable from the Fund over the sum of—

(A) the present value of deductions to be withheld from the future basic salary of participants and of future agency contributions to be made on their behalf, plus

(B) the present value of Government payments to the Fund under section 821, plus

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[91] The text in parenthesis was added by sec. 404(a) of Public Law 99-335 (100 Stat. 610).

(C) the Fund balance as of the date the unfunded liability is determined.

Sec. 805.[92] **Contributions to the Fund.**—(a) Except as provided in subsection (h),[93] 7 percent of the basic salary received by each participant shall be deducted from the salary and contributed to the Fund for the payment of annuities, cash benefits, refunds, and allowances. An equal amount shall be contributed by the Department from the appropriations or fund used for payment of the salary of the participant. The Department shall deposit in the Fund the amounts deducted and withheld from basic salary and the amounts contributed by the Department.

(b) Each participant shall be deemed to consent and agree to such deductions from basic salary. Payment less such deductions shall be a full and complete discharge and acquittance of all claims and demands whatsoever for all regular services during the period covered by such payment, except the right to the benefits to which the participant shall be entitled under this Act, notwithstanding any law, rule, or regulation affecting the salary of the individual.

(c)(1) If a member of the Service who is under another retirement system for Government employees becomes a participant in the System by direct transfer, the total contributions and deposits of that member that would otherwise be refundable on separation (except voluntary contributions), including interest thereon, shall be transferred to the Fund effective as of the date such member becomes a participant in the System. Each such member shall be deemed to consent to the transfer of such funds, and such transfer shall be a complete discharge and acquittance of all claims and demands against the other Government retirement fund on account of service rendered by such member prior to becoming a participant in the System.

(2) A member of the Service whose contributions are transferred to the Fund pursuant to paragraph (1) shall not be required to make additional contributions for periods of service for which required contributions were made to the other Government retirement fund; nor shall any refund be made to any such member on account of contributions made during any period to the other Government retirement fund at a higher rate than that fixed by subsection (d).

(d)(1) Any participant credited with civilian service after July 1, 1924—

(A) for which no retirement contributions, deductions, or deposits have been made, or

(B) for which a refund of such contributions, deductions, or deposits has been made which has not been redeposited,

may make a special contribution to the Fund equal to the following percentages of basic salary received for such service:

Time of service:	*Percent of basic salary*
July 1, 1924, through October 15, 1960, inclusive	5
October 16, 1960, through December 31, 1969, inclusive	6½

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[92] 22 U.S.C. 4045.

[93] The text "Except as provided in subsection (h)," was added by sec. 405(a)(1) of Public Law 99-335 (100 Stat. 610).

	Percent of basic salary
On and after January 1, 1970	7

(2) Notwithstanding paragraph (1), a special contribution for prior nondeposit service as a National Guard technician which would be creditable toward retirement under subchapter III of chapter 83 of title 5, United States Code, and for which a special contribution has not been made, shall be equal to the special contribution for such service computed in accordance with the schedule in paragraph (1) multiplied by the percentage of such service that is creditable under section 816.

(3) Special contributions under this subsection shall include interest computed from the midpoint of each service period included in the computation, or from the date refund was paid, to the date of payment of the special contribution or commencing date of annuity, whichever is earlier. Interest shall be compounded at the annual rate of 4 percent to December 31, 1976, and 3 percent thereafter.[94] No interest shall be charged on special contributions for any period of separation from Government service which began before October 1, 1956. Special contributions may be paid in installments (including by allotment of pay) when authorized by the Secretary of State.

(4) [95] Notwithstanding the preceding provisions of this subsection and any provision of section 206(b)(3) of the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983, the percentage of basic pay required under this subsection in the case of a participant described in section 853(c) shall, with respect to any covered service (as defined by section 203(a)(3) of such Act) performed by such individual after December 31, 1983, and before January 1, 1987, be equal to 1.3 percent.

(e) [96] (1) Each participant who has performed military or naval service before the date of separation on which the entitlement to any annuity under this chapter is based may pay to the Secretary a special contribution equal to 7 percent of the amount of the basic pay paid under section 204 of title 37 of the United States Code, to the participant for each period of military or naval service after December 1956. The amount of such payments shall be based on such evidence of basic pay for military service as the participant may provide or if the Secretary determines sufficient evidence has not been so provided to adequately determine basic pay for military or naval service, such payment shall be based upon estimates of such basic pay provided to the Department under paragraph (4).

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[94] Sec. 1 of Executive Order 12446 (October 17, 1983; 48 F.R. 48443) provided the following:

"Section 1. Interest Rates, Deposits, Refunds, and Redeposits. (a) The second sentence of Section 805(d)(3) of the Act (22 U.S.C. 4054(d)(3)), the first sentence to Section 815(h) (22 U.S.C. 4055(h)), and the first sentence of Section 825(a) (22 U.S.C. 4065(a)), are deemed to be amended to provide that interest shall be compounded at the annual rate of 3 percent per annum through December 31, 1984, and thereafter at a rate equal to the overall average yield to the Fund during the preceding fiscal year from all obligations purchased by the Secretary of the Treasury during such fiscal year under section 819, as determined by the Secretary of the Treasury.

"(b) * * *

"(c) The amendments deemed to be made by section 1 of this Order shall apply (i) to contributions for civilian service performed on or after the first day of the month following issuance of this Order, (ii) to contributions for prior refunds to participants for which application is received by the employing agency on and after such first day of the month, and (iii) to excess contributions under section 815(h) and voluntary contributions under section 825(a) from the first day of the month following issuance of this Order."

[95] Paragraph (4) was added by sec. 405(b) of Public Law 99-335 (100 Stat. 610).

[96] Sec. 4(a) of Executive Order 12446 (October 17, 1983; 48 F.R. 28443) redesignated existing subsec. (e) as subsec. (g) and added new subsecs. (e) and (f), effective October 17, 1983.

(2) Any deposit made under paragraph (1) of this subsection more than two years after the later of—

(A) the effective date of this Order, or

(B) the date on which the participant making the deposit first became a participant in a Federal staff retirement system for civilian employees—

shall include interest on such amount computed and compounded annually beginning on the date of the expiration of the two-year period. The interest rate that is applicable in computing interest in any year under this paragraph shall be equal to the interest rate that is applicable for such year under subsection (d) of this section.

(3) Any payment received by the Secretary under this section shall be remitted to the Fund.

(4) The Secretary of Defense, the Secretary of Transportation, the Secretary of Commerce, or the Secretary of Health and Human Services, as appropriate, shall furnish such information to the Secretary as the Secretary may determine to be necessary for the administration of this subsection.

(f) [96] Contributions shall only be required to obtain credit for periods of military or naval service to the extent provided under section 805(e) and section 816(a), except that credit shall be allowed in the absence of contributions to individuals of Japanese ancestry under section 816 for periods of internment during World War II.

(g) [96] A participant or survivor may make a special contribution at any time before receipt of annuity and may authorize payment by offset against initial annuity accruals.

(h) [97] Effective with respect to pay periods beginning after December 31, 1986, in administering this section with respect to a participant described in section 853(c) whose service is employment for the purposes of title II of the Social Security Act and chapter 21 of the Internal Revenue Code of 1954, contributions to the Fund and interest thereon shall be computed as if section 8334(k) of title 5, United States Code, were applicable.

Sec. 806.[98] **Computation of Annuities.**—(a) [99] The annuity of a participant shall be equal to 2 percent of his or her basic salary for the highest 3 consecutive years of service multiplied by the number of years, not exceeding 35, of service credit obtained in accordance with sections 816 and 817, except that the highest 3 years of service shall be used in computing the annuity of any participant who serves an assignment in a position, as described in section 302(b), to which the participant was appointed by the President and whose continuity of service in that position is interrupted prior to retirement by appointment or assignment to any other position determined by the Secretary of State to be of comparable importance. In determining the aggregate period of service upon which the annuity is to be based, the fractional part of a month, if any, shall not be counted. The annuity shall be reduced by 10 percent of any special contribution described in section 805(d) which is due for service for which no contributions were made and which remains unpaid unless the participant elects to eliminate the service involved for purposes of annuity computation.

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[97] Subsection (h) was added by sec. 405(a)(2) of Public Law 99-335 (100 Stat. 610).

[98] 22 U.S.C. 4046.

[99] Sec. 1 of Executive Order 12446 (October 17, 1983; 48 F.R. 48443) provided the following: "Section 1. *Interest Rates, Deposits, Refunds, and Redeposits.* (a) * * *

(b) Sections 806(a) and 816(d) of the Act (22 U.S.C. 4046(a) and 4056(d)) are deemed to be amended to exclude from the computation of creditable civilian service under section 816(a) of the Act any period of civilian service for which retirement deductions or contributions have not been made under section 805(d) of the Act unless—

(1) the participant makes a contribution for such period as provided in such section 805(d); or

(2) no contribution is required for such service as provided under section 805(f) of the Act as deemed to be amended by this Order, or under any other statute.

"(c) The amendments deemed to be made by section 1 of this Order shall apply (i) to contributions for civilian service performed on or after the first day of the month following issuance of this Order, (ii) to contributions for prior refunds to participants for which application is received by the employing agency on and after such first day of the month, and (iii) to excess contributions under section 815(h) and voluntary contributions under section 825(a) from the first day of the month following issuances of this Order."

(b)(1)(A) Except to the extent provided, otherwise under a written election under subparagraph (B) or (C), if at the time of retirement a participant or former participant is married (or has a former spouse who has not remarried before attaining age 60), the participant shall receive a reduced annuity and provide a survivor annuity for his or her spouse under this subsection or former spouse under section 814(b), or a combination of such annuities, as the case may be.

(B) At the time of retirement, a married participant or former participant and his or her spouse may jointly elect in writing to waive a survivor annuity for that spouse under this section (or under section 814(b) if the spouse later qualifies as a former spouse under section 804(6)), or to reduce such survivor annuity under this section (or section 814(b)) by designating a portion of the annuity of the participant as the base for the survivor benefit. In the event the marriage is dissolved following an election for such a reduced annuity and the spouse qualifies as a former spouse, the base used in calculating any annuity of the former spouse under section 814(b) may not exceed the portion of the participant's annuity designated under this subparagraph.

(C) If a participant or former participant has a former spouse, the participant and such former spouse may jointly elect by spousal agreement under section 820(b)(1) to waive a survivor annuity under section 814(b) for that former spouse if the election is made (i) before the end of the 12-month period after the divorce or annulment involving that former spouse becomes final or (ii) at the time of retirement whichever occurs first.

(D) The Secretary of State may prescribe regulations under which a participant or former participant may make an election under subparagraph (B) or (C) without the participant's spouse or former spouse if the participant establishes to the satisfaction of the Secretary of State that the participant does not know, and has taken all reasonable steps to determine, the whereabouts of the spouse or former spouse.

(2) The annuity of a participant or former participant providing a survivor benefit under this section (or section 814(b)), excluding any portion of the annuity not designated or committed as a base for any survivor annuity, shall be reduced by 2½ percent of the first $3,600 plus 10 percent of any amount over $3,600. The reduction under this paragraph shall be calculated before any reduction under section 814(a)(5).

(3)(A) If a former participant entitled to receive a reduced annuity under this subsection dies and is survived by a spouse, a survivor annuity shall be paid to the surviving spouse equal to 55 percent of the full amount of the participant's annuity computed under subsection (a), or 55 percent of any lesser amount elected as the base for the survivor benefit under paragraph (1)(B).

(B) Notwithstanding subparagraph (A), the amount of the annuity calculated under subparagraph (A) for a surviving spouse in any case in which there is also a surviving former spouse of the participant who qualifies for an annuity under section 814(b) may not exceed 55 percent of the portion (if any) of the base for survivor benefits which remains available under section 814(b)(4)(B).

(C) An annuity payable from the Fund under this subchapter [72a] to a surviving spouse under this paragraph shall commence on the day after the participant dies and shall terminate on the last day of the month before the surviving spouse's death or remarriage before attaining age 60. If such a survivor annuity is terminated because of remarriage, it shall be restored at the same rate commencing on the date such remarriage is terminated if any lump sum paid upon termination of the annuity is returned to the Fund.

(c)(1) If an annuitant who was a participant dies and is survived by a spouse and by a child or children, in addition to the annuity payable to the surviving spouse, there shall be paid to or on behalf of each child an annuity equal to the smaller of—

(A) $900, or

(B) $2,700 divided by the number of children.

(2) If an annuitant who was a participant dies and is not survived by a spouse but by a child or children, each surviving child shall be paid an annuity equal to the smaller of—

(A) $1,080, or

(B) $3,240 divided by the number of children.

(3) The amounts specified in this subsection are subject to—

(A) cost-of-living adjustments as specified under section 826(c)(3), and

(B) the minimum specified in subsection (l)(2) of this section.

(d) If a surviving spouse dies or the annuity of a child is terminated, the annuities of any remaining children shall be recomputed and paid as though such spouse or child had not survived the participant. If the annuity to a surviving child who has not been receiving an annuity is initiated or resumed, the annuities of any other children shall be recomputed and paid from that date as though the annuities to all currently eligible children in the family were then being initiated.

(e) The annuity payable to a child under subsection (c) or (d) shall begin on the day after the participant dies, or if the child is not then qualified, on the first day of the month in which the child becomes eligible. The annuity of a child shall terminate on the last day of the month which precedes the month in which eligibility ceases.

(f) At the time of retirement an unmarried participant who does not have a former spouse for whose benefit a reduction is made under subsection (b) may elect to receive a reduced annuity and to provide for an annuity equal to 55 percent of the reduced annuity payable after his or her death to a beneficiary whose name is designated in writing to the Secretary of State. The annuity payable to a participant making such election shall be reduced by 10 percent of an annuity computed under subsection (a) and by 5 percent of an annuity so computed for each full 5 years the designated beneficiary is younger than the retiring participant, but such total reduction shall not exceed 40 percent. No such election of a reduced annuity payable to a beneficiary shall be valid until the participant has satisfactorily passed a physical examination as prescribed by the Secretary of State. The annuity payable to a beneficiary under this subsection shall begin on the day after the annuitant dies and shall terminate on the last day of the month preceding the death of the beneficiary. An annuity which is reduced under this subsection (or any similar prior provision of law) shall, effective the first day of the month following the death of the beneficiary named under this subsection, be recomputed and paid as if the annuity had not been so reduced.

(g) A participant or former participant who was unmarried at retirement and who later marries may, within one year after such marriage, irrevocably elect in writing to receive a reduced annuity and to provide a survivor annuity for the spouse (if such spouse qualifies as a surviving spouse under section 804(13)). Receipt by the Secretary of State of notice of an election under this subsection voids prospectively any election previously made under subsection (f). The reduction in annuity required by an election under this subsection shall be computed and the amount of the survivor annuity shall be determined in accordance with subsections (b) (2) and (3). The annuity reduction or recomputation shall be effective the first day of the month beginning one year after the date of marriage.

(h) A surviving spouse or surviving former spouse of any participant or former participant shall not become entitled to a survivor annuity or to the restoration of a survivor annuity payable from the Fund unless the survivor elects to receive it instead of any other survivor annuity to which he or she may be entitled under this or any other retirement system for Government employees on the basis of a marriage to someone other than that participant.

(i)(1) Any married annuitant who reverts to retired status with entitlement to a supplemental annuity under section 823 shall, unless the annuitant and his or her spouse jointly elect in writing to the contrary at that time, have the supplemental annuity reduced by 10 percent to provide a supplemental survivor annuity for his or her spouse. Such supplemental survivor annuity shall be equal to 55 percent of the supplemental annuity of the annuitant and shall be payable to a surviving spouse to whom the annuitant was married at the time of reversion to retired status or whom the annuitant subsequently married.

(2) The Secretary of State shall issue regulations to provide for the application of paragraph (1) of this subsection and of section 823 in any case in which an annuitant has a former spouse who was married to the participant at any time during a period of recall service and who qualifies for an annuity under section 814(b).

(j) An annuity which is reduced under this section or any similar prior provision of law to provide a survivor benefit for a spouse shall, if the marriage of the participant to such spouse is dissolved, be recomputed and paid for each full month during which an annuitant is not married (or is remarried if there is no election in effect under the following sentence) as if the annuity had not been so reduced, subject to any reduction required to provide a survivor benefit under section 814 (b) or (c). Upon remarriage the retired participant may irrevocably elect, by means of a signed writing received by the Secretary within one year after such remarriage, to receive during such marriage a reduction in annuity for the purpose of allowing an annuity for the new spouse of the annuitant in the event such spouse survives the annuitant. Such reduction shall be equal to the reduction in effect immediately before the dissolution of the previous marriage (unless such reduction is adjusted under section 814(b)(5)), and shall be effective the first day of the first month beginning one year after the date of remarriage. A survivor annuity elected under this subsection shall be treated in all respects as a survivor annuity under subsection (b).

(k) The Secretary of State shall, on an annual basis—

(1) inform each participant of his or her right of election under subsections (g) and (j); and

(2) to the maximum extent practicable, inform spouses or former spouses of participants or former participants of their rights under this section and section 814.

(l)(1) The monthly rate of an annuity payable under this subchapter [84] to an annuitant, other than a child, shall not be less than the smallest primary insurance amount, including any cost-of-living increase added to that amount, authorized to be paid from time to time under title II of the Social Security Act (42 U.S.C. 401 et seq.).

(2) The monthly rate of an annuity payable under this subchapter [84] to a surviving child shall not be less than the smallest primary insurance amount, including any cost-of-living increase added to that amount, authorized to be paid from time to time under title II of the Social Security Act (42 U.S.C. 401 et seq.) or three times such primary insurance amount divided by the number of surviving children entitled to an annuity, whichever is the lesser.

(3) This subsection does not apply to an annuitant or to a survivor who is or becomes entitled to receive from the United States an annuity or retired pay under any other civilian or military retirement system, benefits under title II of the Social Security Act (42 U.S.C. 401 et seq.), a pension, veterans' compensation, or any other periodic payment of a similar nature when the monthly rate thereof is equal to or greater than the smallest primary insurance amount, including any cost-of-living increase added to that amount, authorized to be paid from time to time under title II of the Social Security Act (42 U.S.C. 401 et seq.).

(4) This subsection shall not apply to the extent provided in section 814(d).

(m) [100] The annuity or survivor annuity payable to any individual subject to section 805(h) beginning with the first month for which such individual both—

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[100] Subsections (m) and (n) were added respectively by secs. 406 and 407 of Public Law 99-335 (100 stat. 610, 611).

(1) attains the minimum age for old-age benefits under title II of the Social Security Act, and

(2) first becomes entitled, or would upon proper application become entitled, for disability or survivor benefits under title II of the Social Security Act based on the service of any individual under this subchapter,

shall be computed as if section 8349 of title 5, United States Code, were applicable.".

(n) [100] (1)(A) A participant—

(i) who, at the time of retirement, is married; and

(ii) who elects at such time (in accordance with subsection (b)) to waive a survivor annuity,

may, during the 18-month period beginning on the date of the retirement of such participant, elect to have a reduction under subsection (b) made in the annuity of the participant (or in such portion thereof as the participant may designate) in order to provide a survivor annuity for the spouse of such participant.

(B) A participant—

(i) who, at the time of retirement, is married, and

(ii) who at such time designates (in accordance with subsection (b)) that a limited portion of the annuity of such participant is to be used as the base for a survivor annuity,

may, during the 18-month period beginning on the date of the retirement of such participant, elect to have a greater portion of the annuity of such participant so used.

(2)(A) An election under subparagraph (A) or (B) of paragraph (1) of this subsection shall not be considered effective unless the amount specified in subparagraph (B) of this paragraph is deposited into the Fund before the expiration of the applicable 18-month period under paragraph (1).

(B) The amount to be deposited with respect to an election under this subsection is an amount equal to the sum of—

(i) the additional cost to the System which is associated with providing a survivor annuity under subsection (b) of this section and results from such election taking into account (I) the difference (for the period between the date on which the annuity of the former participant commences and the date of the election) between the amount paid to such former participant under this subchapter and the amount which would have been paid if such election had been made at the time the participant or former participant applied for the annuity, and (II) the costs associated with providing the later election; and

(ii) interest on the additional cost determined under clause (i)(I) of this subparagraph computed using the interest rate specified or determined under section 805(d)(3) for the calendar year in which the amount to be deposited is determined.

(3) An election by a participant under this subsection voids prospectively any election previously made in the case of such participant under subsection (b).

(4) An annuity which is reduced in connection with an election under this subsection shall be reduced by the same percentage reductions as were in effect at the time of the retirement of the participant whose annuity is so reduced.

(5) Rights and obligations resulting from the election of a reduced annuity under this subsection shall be the same as the rights and obligations which would have resulted had the participant involved elected such annuity at the time of retiring.

Sec. 807.[101] **Payment of Annuity.**—(a)[102] (1) Except as otherwise provided in paragraph (2), the annuity of a participant who has met the eligibility requirements for an annuity shall commence on the first day of the month after—

(A) separation from the Service occurs; or

(B) pay ceases and the service and age requirements for entitlement to annuity are met.

(2) The annuity of—

(A) a participant who is retired and is eligible for benefits under section 609(a) or a participant who is retired under section 813 or is otherwise involuntarily separated from the Service, except by removal for cause on charges of misconduct or delinquency,

(B) a participant retiring under section 808 due to a disability, and

(C) a participant who serves 3 days or less in the month of retirement—

shall commence on the day after separation from the Service or the day after pay ceases and the requirements for entitlement to annuity are met.

(b) The annuity to a survivor shall become effective as otherwise specified but shall not be paid until the survivor submits an application for such annuity, supported by such proof of eligibility as the Secretary of State may require. If such application or proof of eligibility is not submitted during the lifetime of an otherwise eligible individual, no annuity shall be due or payable to his or her estate.

(c) An individual entitled to annuity from the Fund may decline to accept all or any part of the annuity by submitting a signed waiver to the Secretary of State. The waiver may be revoked in writing at any time. Payment of the annuity waiver may not be made for the period during which the waiver was in effect.

(d) Recovery of overpayments under this chapter may not be made from an individual when, in the judgment of the Secretary of State, the individual is without fault and recovery would be against equity and good conscience or administratively infeasible.

(e)(1)[103] The Secretary of State shall prescribe regulations under which a participant may, at the time of retiring under this subchapter (other than under section 808), elect annuity benefits under this section instead of any other benefits under this subchapter (including survivor benefits) based on the service of the participant.

(2) Subject to paragraph (3), the Secretary of State shall by regulation provide for such alternative forms of annuities as the Secre-

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[101] 22 U.S.C. 4047.

[102] Sec. 3(a) of Executive Order 12446 (October 17, 1983; 48 F.R. 48443) amended and restated subsec. (a). This amendment became effective on November 16, 1983.

[103] Subsec. (e) was added by sec. 408 of Public Law 99-335 (100 Stat. 612).

tary considers appropriate, except that among the alternatives offered shall be—

(A) an alternative which provides for—

(i) payment of the lump-sum credit (excluding interest) to the participant; and

(ii) payment of an annuity to the participant for life; and

(B) in the case of a participant who is married at the time of retirement, an alternative which provides for—

(i) payment of the lump-sum credit (excluding interest) to the participant; and

(ii) payment of an annuity to the participant for life, with a survivor annuity payable for the life of a surviving spouse.

(3) Each alternative provided for under paragraph (2) shall, to the extent practicable, be designed such that the total value of the benefits provided under such alternative (including any lump-sum credit) us actuarially equivalent to the value of the annuity which would otherwise be provided the participant under this subchapter, as computed under section 806(a).

(4) A participant who, at the time of retiring under this subchapter—

(A) is married, shall be ineligible to make an election under this section unless a waiver is made under section 806(b)(1)(B); or

(B) has a former spouse, shall be ineligible to make an election under this section if the former spouse is entitled to benefits under this subchapter (based on the service of the participant) unless a waiver has been made under section 806(b)(1)(C).

(5) A participant who is married at the time of retiring under this subchapter and who makes an election under this section may, during the 18-month period beginning on the date of retirement, make the election provided for under section 806(n), subject to the deposit requirement thereunder.

(6) Notwithstanding any other provision of law, any lump-sum credit provided to an election under this subsection shall not preclude an individual from receiving any other benefits under this subsection.

Sec. 808.[104] **Retirement for Disability or Incapacity.**—(a) Any participant who has at least 5 years of service credit toward retirement under the System (excluding military and naval service) and who becomes totally disabled or incapacitated for useful and efficient service by reason of disease, illness, or injury (not due to vicious habits, intemperance, or willful conduct of the participant) shall upon his or her own application or upon order of the Secretary, be retired on an annuity computed as prescribed in section 806. If the disabled or incapacitated participant has less than 20 years of service credit toward retirement under the System at the time of retirement, his or her annuity shall be computed on the assumption that the participant has had 20 years of service, except that the additional service credit that may accrue to a participant under this sentence shall in no case exceed the difference between his or her age at the time of retirement and age 65. However, if a participant retiring under this section is receiving retired pay or retainer pay for military service (except that specified in Section 8332(c) (1) or (2) of title 5 of the United States Code) or Veterans' Administration pension or compensation in lieu of such retired or retainer pay, the annuity of that participant shall be computed under this chapter excluding extra credit authorized by this subsection and excluding credit for military service from that computation. If the amount of the annuity so computed, plus the retired or retainer pay which is received, or which would be received but for the application of the limitation in Section 5532 of title 5 of the United States Code, or the Veterans' Administration pension or compensation in lieu of such retired pay or retainer pay, is less than the annuity that would be payable under this chapter in the absence of the previous sentence, an amount equal to the difference shall be added to the annuity computed under this subchapter.[105]

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[104] 22 U.S.C. 4048.

(b) Before being retired under this section, the participant shall be given a physical examination by one or more duly qualified physicians or surgeons designated by the Secretary of State to conduct examinations. Disability or incapacity shall be determined by the Secretary of State on the basis of the advice of such physicians or surgeons. Unless the disability or incapacity is permanent, like examinations shall be made annually until the annuitant has attained age 65. If the Secretary of State determines on the basis of the advice of one or more duly qualified physicians or surgeons conducting such examinations that an annuitant has recovered to the extent that he or she can return to duty, the annuitant may apply for reinstatement or reappointment in the Service within 1 year from the date recovery is determined. Upon application, the Secretary shall reinstate such recovered annuitant in the class in which the annuitant was serving at time of retirement, or the Secretary may, taking into consideration the age, qualifications, and experience of such annuitant, and the present class of his or her contemporaries in the Service, appoint or recommend that the President appoint the annuitant to a higher class. Payment of the annuity shall continue until a date of 6 months after the date of the examination showing recovery or until the date of reinstatement or reappointment in the Service, whichever is earlier. Fees for examinations under this section, together with reasonable traveling and other expenses incurred in order to submit to examination, shall be paid out of the Fund. If the annuitant fails to submit to examination as required under this subsection, payment of the annuity shall be suspended until continuance of the disability or incapacity is satisfactorily established.

(c) If a recovered annuitant whose annuity is discontinued is for any reason not reinstated or reappointed in the Service, he or she shall be considered to have been separated within the meaning of section 810 as of the date of retirement for disability or incapacity and shall, after the discontinuance of the annuity, be entitled to the benefits of that section or of section 815, except that he or she may elect voluntary retirement if eligible under section 811.

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[105] The final two sentences of subsection (a) of sec. 808 were added by sec. 2 of Executive Order 12289 (February 14, 1981; 46 F.R. 12693).

(d) No participant shall be entitled to receive an annuity under this subchapter [106] and compensation for injury or disability to himself or herself under subchapter I of chapter 81 of title 5, United States Code, covering the same period of time, except that a participant may simultaneously receive both an annuity under this section and scheduled disability payments under section 8107 of title 5, United States Code. This subsection shall not bar the right of any claimant to the greater benefit conferred by either this subchapter [106] or subchapter I of such chapter 8 [107] for any part of the same period of time. Neither this subsection nor any provision of subchapter I of such chapter 8 [107] shall be construed to deny the right of any participant to receive an annuity under this subchapter [106] and to receive concurrently any payment under such subchapter I of such chapter 8 [107] by reason of the death of any other individual.

(e) Notwithstanding any other law, the right of any individual entitled to an annuity under this subchapter [106] shall not be affected because such person has received an award of compensation in a lump sum under section 8135 of title 5, United States Code, except that where such annuity is payable on account of the same disability for which compensation under such section has been paid, so much of such compensation as has been paid for any period extended beyond the date such annuity becomes effective, as determined by the Secretary of Labor, shall be refunded to the Department of Labor, to be paid into the Federal Employees' Compensation Fund. Before such individual receives such annuity, he or she shall—

(1) refund to the Department of Labor the amount representing such commuted payments for such extended period, or

(2) authorize the deduction of such amount from the annuity payable under this subchapter [106] which amount shall be transmitted to the Department of Labor for reimbursement to such Fund.

Deductions from such annuity may be made from accrued and accruing payments, or may be prorated against and paid from accruing payments in such manner as the Secretary of Labor shall determine, whenever the Secretary of Labor finds that the financial circumstances of the annuitant warrant deferred refunding.

(f) A claim may be allowed under this section only if the application is filed with the Secretary of State before the participant is separated from the Service or within one year thereafter. This time limitation may be waived by the Secretary of State for a participant who at the date of separation from the Service or within one year thereafter is mentally incompetent, if the application is filed with the Secretary of State within one year from the date of restoration of the participant to competency or the appointment of a fiduciary, whichever is earlier.

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[106] The word "subchapter" was substituted for the word "Act" by section 402(b) and (c) of Public Law 99-355 (100 Stat. 609).

[107] The words "subchapter I of such chapter 8" were substituted in lieu of the words "such subchapter" by sec. 402(b)(1)(A) of Public Law 99-355 (100 Stat. 609).

Sec. 809.[108] **Death in Service.**—(a) If a participant dies and no claim for annuity is payable under this subchapter,[106] the lump-sum credit shall be paid in accordance with section 815.

(b) If a participant who has at least 18 months of civilian service credit toward retirement under the System dies before retirement or other separation from the Service and is survived by a spouse or former spouse qualifying for an annuity under section 814(b), such surviving spouse shall be entitled to an annuity equal to 55 percent of the annuity computed in accordance with subsections (e) and (g) of this section and section 806(a) and any surviving former spouse shall be entitled to an annuity under section 814(b) as if the participant died after being entitled to an annuity under this subchapter. If the participant had less than 3 years creditable civilian service at the time of death, the survivor annuity shall be computed on the basis of the average salary for the entire period of such service.

(c) If a participant who has at least 18 months of civilian service credit toward retirement under the System dies before retirement or other separation from the Service and is survived by a spouse and a child or children, each surviving child shall be entitled to an annuity computed in accordance with subsections (c)(1) and (d) of section 806.

(d) If a participant who has at least 18 months of civilian service credit toward retirement under the System dies before retirement or other separation from the Service and is not survived by a spouse, but by a child or children, each surviving child shall be entitled to an annuity computed in accordance with subsections (c)(2) and (d) of section 806.

(e) If, at the time of his or her death, the participant had less than 20 years of service credit toward retirement under the System, the annuity payable in accordance with subsection (b) shall be computed in accordance with section 806 on the assumption he or she has had 20 years of service, except that the additional service credit that may accrue to a deceased participant under this subsection shall in no case exceed the difference between his or her age on the date of death and age 65. In all cases arising under this subsection or subsection (b), (c), (d), or (g), it shall be assumed that the deceased participant was qualified for retirement on the date of death.

(f) If an annuitant entitled to a reduced annuity dies in service after being recalled under section 308 and is survived by a spouse or former spouse entitled to a survivor annuity based on the service of such annuitant, such survivor annuity shall be computed as if the recall service had otherwise terminated on the day of death and the annuity of the deceased had been resumed in accordance with section 823. If such death occurs after the annuitant had completed sufficient recall service to attain eligibility for a supplemental annuity, a surviving spouse or surviving former spouse who was married to the participant at any time during a period of recall service shall be entitled to elect, in addition to any other benefits and in lieu of a refund of retirement contributions made during the recall service, a supplemental survivor annuity computed and paid under section 806(i) as if the recall service had otherwise terminated. If the annuitant had completed sufficient recall service to attain eligibility to have his or her annuity determined anew, a surviving spouse or such a surviving former spouse may elect, in lieu of any other survivor benefit under this chapter, to have the rights of the annuitant redetermined and to receive a survivor annuity computed under subsection (b) on the basis of the total service of the annuitant.

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[108] 22 U.S.C. 4049.

(g) Notwithstanding subsection (b), if the participant or former participant had a former spouse qualifying for an annuity under section 814(b), the annuity of the spouse under this section shall be subject to the limitation of section 806(b)(3)(B).

(h) Annuities that become payable under this section shall commence, terminate, and be resumed in accordance with subsection (b)(4), (e), or (h) of section 806, as appropriate.

Sec. 810.[109] **Discontinued Service Retirement.**—Any participant who voluntarily separates from the Service after obtaining at least 5 years of service credit toward retirement under the System (excluding military and naval service) may upon separation from the Service or at any time prior to becoming eligible for an annuity elect to have his or her contributions to the Fund returned in accordance with section 815, or to leave his or her contributions in the Fund and receive an annuity, computed under section 806, commencing at age 60.

Sec. 811.[110] **Voluntary Retirement.**—Any participant who is at least 50 years of age and has 20 years of creditable service, including at least 5 years of service credit toward retirement under the System (excluding military and naval service), may on his or her own application and with the consent of the Secretary be retired from the Service and receive retirement benefits in accordance with section 806.

Sec. 812.[111] **Mandatory Retirement.**—(a) Except as provided in subsection (b), any participant shall be retired from the Service at the end of the month in which the participant has reached age 65 and has at least 5 years of service credit toward retirement under the System (excluding military and naval service), and shall receive retirement benefits in accordance with section 806.

(b)(1) Any participant who is otherwise required to retire under subsection (a) while occupying a position to which he or she was appointed by the President, by and with the advice and consent of the Senate, may continue to serve until that appointment is terminated.

(2) Whenever the Secretary determines it to be in the public interest, any participant who is otherwise required to retire under subsection (a) may be retained on active service for a period not to exceed 5 years.

(3) Any participant who completed a period of service authorized by this subsection shall be retired at the end of the month in which such authorized service is completed.

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[109] 22 U.S.C. 4050.

[110] 22 U.S.C. 4051.

[111] 22 U.S.C. 4052. Sec. 2403(d)(1) of this Act specified that sec. 812 would be effective on the date of enactment of the Act (October 17, 1980).

Sec. 813.[112] **Retirement of Former Presidential Appointees.**—If a participant completes an assignment under section 302(b) in a position to which he or she was appointed by the President and has not been reassigned within 3 months after the termination of such assignment (plus any period of authorized leave), the participant shall be retired from the Service and receive retirement benefits in accordance with section 806.

Sec. 814.[113] **Former Spouses.**—(a)(1) Unless otherwise expressly provided by any spousal agreement or court order under section 820(b)(1), a former spouse of a participant or former participant is entitled to an annuity—

(A) if married to the participant throughout the creditable service of the participant, equal to 50 percent of the annuity of the participant; or

(B) if not married to the participant throughout such creditable service, equal to that former spouse's pro rata share of 50 percent of such annuity.

For the purposes of this paragraph, the term "creditable service" means service which is creditable under subchapter I or II.[114]

(2) A former spouse shall not be qualified for an annuity under this subsection if before the commencement of the annuity the former spouse remarries before becoming 60 years of age.

(3) The annuity of a former spouse under this subsection commences on the later of the day the participant upon whose service the annuity is based becomes entitled to an annuity under this chapter on the first day of the month in which the divorce or annulment involved becomes final. The annuity of such former spouse and the right thereto terminate on—

(A) the last day of the month before the former spouse dies or remarries before 60 years of age; or

(B) the date the annuity of the participant terminates (except in the case of an annuity subject to paragraph (5)(B)).

(4) No spousal agreement or court order under section 820(b)(1) involving any participant may provide for an annuity or any combination of annuities under this subsection which exceeds the annuity of the participant, nor may any such court order relating to an annuity under this subsection be given effect if it is issued more than 12 months after the date the divorce or annulment involved becomes final.

(5)(A) The annuity payable to any participant shall be reduced by the amount of an annuity under this subsection paid to any former spouse based upon the service of that participant. Such reduction shall be disregarded in calculating the survivor annuity for any spouse, former spouse, or other survivor under this subchapter, and in calculating any reduction in the annuity of the participant to provide survivor benefits under subsection (b) or section 806(b)(3).

(B) If any annuitant whose annuity is reduced under subparagraph (A) is recalled to service under section 308, or reinstated or reappointed in the Service in the case of a recovered disability annuitant or if any annuitant is reemployed as provided for under section 824, the salary of that annuitant shall be reduced by the same amount as the annuity would have been reduced if it had continued. Amounts equal to the reductions under this subparagraph shall be deposited in the Treasury of the United States to the credit of the Fund.

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[112] 22 U.S.C. 4053.

[113] 22 U.S.C. 4054.

[114] This sentence was added by sec. 404(b)(1) of Public Law 99-335 (100 Stat. 610).

(6) Notwithstanding paragraph (3), in the case of any former spouse of a disability annuitant—

(A) the annuity of the former spouse shall commence on the date the participant would qualify on the basis of his or her creditable service for an annuity under this subchapter (other than a disability annuity) or the date the disability annuity begins, whichever is later, and

(B) the amount of the annuity of the former spouse shall be calculated on the basis of the annuity for which the participant would otherwise so qualify.

(7) An annuity under this subsection shall be treated the same as a survivor annuity under subsection (b) for purposes of section 806(h) or any comparable provision of law.

(b)(1) Subject to any election under section 806(b)(1)(C) and unless otherwise expressly provided by any spousal agreement or court order under section 820(b)(1), if a former participant who is entitled to receive an annuity is survived by a former spouse, the former spouse shall be entitled to a survivor annuity—

(A) if married to the participant throughout the creditable service of the participant, equal to 55 percent of the full amount of the participant's annuity, as computed under section 806(a); or

(B) if not married to the participant throughout such creditable service, equal to that former spouse's pro rata share of 55 percent of the full amount of such annuity. For the purposes of this paragraph, the term 'creditable service' means service which is creditable under subchapter I or II.[115]

(2) A former spouse shall not be qualified for an annuity under this subsection if before the commencement of that annuity the former spouse remarries before becoming 60 years of age.

(3) An annuity payable from the Fund under this subchapter to a surviving former spouse under this subsection shall commence on the day after the annuitant dies and shall terminate on the last day of the month before the former spouse's death or remarriage before attaining age 60. If such a survivor annuity is terminated because of remarriage, it shall be restored at the same rate commencing on the date such remarriage is terminated if any lump sum paid upon termination of the annuity is returned to the Fund.

(4)(A) The maximum survivor annuity or combination of survivor annuities under this section (and section 806(b)(3)) with respect to any participant or former participant may not exceed 55 percent of the full amount of the participant's annuity, as calculated under section 806(a).

(B) Once a survivor annuity has been provided for under this subsection for any former spouse, a survivor annuity may thereafter be provided for under this subsection (or section 806(b)(3)) with respect to a participant or former participant only for that portion (if any) of the maximum available which is not committed for survivor benefits for any former spouse whose prospective right to such annuity has not terminated by reason of death or remarriage.

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[115] This sentence was added by sec. 404(b)(2) of Public Law 99-335 (100 Stat. 610).

(C) After the death of a participant or former participant, a court order under section 820(b)(1) may not adjust the amount of the annuity of any former spouse under this section.

(5)(A) For each full month after a former spouse of a participant or former participant dies or remarries before attaining age 60, the annuity of the participant, if reduced to provide a survivor annuity for that former spouse, shall be recomputed and paid as if the annuity had not been so reduced, unless an election is in effect under subparagraph (B).

(B) Subject to paragraph (4)(B), the participant may elect in writing within one year after receipt of notice of the death or remarriage of the former spouse to continue the reduction in order to provide a higher survivor annuity under section 806(b)(3) for any spouse of the participant.

(c)(1) In the case of any participant or former participant providing a survivor annuity benefit under subsection (b) for a former spouse—

(A) such participant may elect, or

(B) a spousal agreement or court order under section 820(b)(1) may provide for,

an additional survivor annuity under this subsection for any other former spouse or spouse surviving the participant, if the participant satisfactorily passes a physical examination as prescribed by the Secretary of State.

(2) Neither the total amount of survivor annuity or annuities under this subsection with respect to any participant or former participant, nor the survivor annuity or annuities for any one surviving spouse or former spouse of such participant under this section and section 806, shall exceed 55 percent of the full amount of the participant's annuity, as computed under section 806(a).

(3)(A) In accordance with regulations which the Secretary of State shall prescribe, the participant involved may provide for any annuity under this subsection—

(i) by a reduction in the annuity or an allotment from the salary of the participant,

(ii) by a lump sum payment or installment payments to the Fund, or

(iii) by any combination thereof.

(B) The present value of the total amount to accrue to the Fund under subparagraph (A) to provide any annuity under this subsection shall be actuarially equivalent in value to such annuity, as calculated upon such tables of mortality as may from time to time be prescribed for this purpose by the Secretary of State.

(C) If a former spouse predeceases the participant or remarries before attaining age 60 (or, in the case of a spouse, the spouse does not qualify as a former spouse upon dissolution of the marriage)—

(i) if an annuity reduction or salary allotment under subparagraph (A) is in effect for that spouse or former spouse, the annuity shall be recomputed and paid as if it had not been reduced or the salary allotment terminated, as the case may be, and

(ii) any amount accruing to the Fund under subparagraph (A) shall be refunded, but only to the extent that such amount may have exceeded the actuarial cost of providing benefits under this subsection for the period such benefits were provided, as determined under regulations prescribed by the Secretary of State.

(D) Under regulations prescribed by the Secretary of State, an annuity shall be recomputed (or salary allotment terminated or adjusted), and a refund provided (if appropriate), in a manner comparable to that provided under subparagraph (C), in order to reflect a termination or reduction of future benefits under this subsection for a spouse in the event a former spouse of the participant dies or remarries before attaining age 60 and an increased annuity is provided for that spouse in accordance with this subchapter.

(4) An annuity payable under this subsection to a spouse or former spouse shall commence on the day after the participant dies and shall terminate on the last day of the month before the former spouse's death or remarriage before attaining age 60.

(5) Section 826 shall not apply to any annuity under this subsection, unless authorized under regulations prescribed by the Secretary of State.

(d) Section 806(l) shall not apply—

(1) to any annuity payable under subsection (a) or (b) to any former spouse if the amount of that annuity varies by reason of a spousal agreement or court order under section 820(b)(1), or an election under section 806(b)(1)(B), from the amount which would be calculated under subsection (a)(1) or (b)(1), as the case may be, in the absence of such spousal agreement, court order, or election; and

(2) to any annuity payable under subsection (c).

Sec. 815.[116] **Lump-Sum Payments.**—(a) Whenever a participant becomes separated from the Service without becoming eligible for an annuity or a deferred annuity under this subchapter, a lump-sum credit shall be paid to the participant (and to any former spouse of the participant, in accordance with subsection (i)). A participant who becomes subject to subchapter II shall be entitled to payment of the lump-sum credit if, and to the extent that, such lump-sum credit relates to service of a type described in clauses (i) through (iii) of section 302(a)(1)(C) of the Federal Employees' Retirement System Act of 1986.[117]

(b) Whenever an annuitant becomes separated from the Service following a period of recall service without becoming eligible for a supplemental or recomputed annuity under section 823, the compulsory contributions of the annuitant to the Fund for such service, together with any special contributions the annuitant may have made for other service performed after the date of separation from the Service which forms the basis for annuity, shall be returned to the annuitant (and any former spouse of the annuitant who was married to the participant during the period of recall service, in accordance with subsection (i)).

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[116] 22 U.S.C. 4055.

[117] This sentence was added by sec. 413 of Public Law 99-335 (100 stat. 614).

(c) If all annuity rights under this chapter based on the service of a deceased participant or annuitant terminate before the total annuity paid equals the lump-sum credit to which the participant or annuitant is entitled, the difference shall be paid in accordance with subsection (f).

(d) If a participant or former participant dies and is not survived by an individual eligible for an annuity under this subchapter or by such an individual or individuals all of whose annuity rights terminate before a claim for survivor annuity is filed, the lump-sum credit to which the participant or annuitant is entitled shall be paid in accordance with subsection (f).

(e) If an annuitant who was a former participant dies, any annuity accrued and unpaid shall be paid in accordance with subsection (f).

(f) Payments under subsections (c) through (e) shall be paid in the following order of precedence to individuals surviving the participant and alive on the date entitlement to the payment arises, upon the establishment of a valid claim therefor, and such payment shall be a bar to recovery by any other person:

(1) To the beneficiary or beneficiaries last designated by the participant before or after retirement in a signed and witnessed writing filed with the Secretary of State prior to the death of the participant, for which purpose a designation, change, or cancellation of beneficiary in a will or other document which is not so executed and filed shall have no force or effect.

(2) If there is no such beneficiary, to the surviving wife or husband of the participant.

(3) If none of the above, to the child (without regard to the definition in section 804(2)) or children of the participant (including adopted and natural children but not stepchildren) and descendants of deceased children by representation.

(4) If none of the above, to the parents of the participants or the survivor of them.

(5) If none of the above, to the duly appointed executor or administrator of the estate of the participant.

(6) If none of the above, to such other next of kin of the participant as may be determined in the judgment of the Secretary of State to be legally entitled to such payment, except that no payment shall be made under this paragraph until after the expiration of 30 days after the death of the participant or annuitant.

(g) Annuity accrued and unpaid on the death of a survivor annuitant shall be paid in the following order of precedence, and the payment bars recovery by any other person:

(1) To the duly appointed executor or administrator of the estate of the survivor annuitant.

(2) If there is no such executor or administrator, to such person as may be determined by the Secretary of State (after the expiration of 30 days from the date of death of the survivor annuitant) to be entitled under the laws of the domicile of the survivor annuitant at the time of death.

(h)[118] Amounts deducted and withheld from basic salary of a participant under section 805 from the beginning of the first pay period after the participant has completed 35 years of service computed under section 816 (excluding service credit for unused sick leave under section 816(b)), together with interest on the amounts at the rate of 3 percent a year compounded annually from the date of the deduction to the date of retirement or death, shall be applied toward any special contribution due under section 805(d), and any balance not so required shall be refunded in a lump sum to the participant after separation or, in the event of a death in service, to a beneficiary in the order of precedence specified in subsection (f).

(i) Unless otherwise expressly provided by any spousal agreement or court order under section 820(b)(1), the amount of a participant's or former participant's lump-sum credit payable to a former spouse of that participant shall be—

(1) if the former spouse was married to the participant throughout the period of creditable service of the participant, 50 percent of the lump-sum credit to which such participant would be entitled in the absence of this subsection, or

(2) if such former spouse was not married to the participant throughout such creditable service, an amount equal to such former spouse's pro rata share of 50 percent of such lump-sum credit.

The lump-sum credit of the participant shall be reduced by the amount of the lump-sum credit payable to the former spouse. For the purposes of this subsection, the term "creditable service" means service which is creditable under subchapter I or II.[119]

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[118] Sec. 1 of Executive Order 12446 (October 17, 1983; 48 F.R. 48443) provided the following:

"Section 1. *Interest Rates, Deposits, Refunds, and Redeposits.* (a) The second sentence of Section 805(d)(3) of the Act (22 U.S.C. 4045(d)(3)), the first sentence of Section 815(h) (22 U.S.C. 4055(h)), and the first sentence of Section 825(a) (22 U.S.C. 4065(a)), are deemed to be amended to provide that interest shall be compounded at the annual rate of 3 percent per annum through December 31, 1984, and thereafter at a rate equal to the overall average yield to the Fund during the preceding fiscal year from all obligations purchased by the Secretary of the Treasury during such fiscal year under section 819, as determined by the Secretary of the Treasury.

"(b) * * *

"(c) The amendments deemed to be made by section 1 of this Order shall apply (i) to contributions for civilian service performed on or after the first day of the month following issuance of this Order, (ii) to contributions for prior refunds to participants for which application is received by the employing agency on and after such first day of the month, and (iii) to excess contributions under section 815(h) and voluntary contributions under section 825(a) from the first day of the month following issuance of this Order."

[119] This sentence was added by sec. 404(c) of Public Law 99-335 (100 Stat. 610).

Sec. 816.[120] **Creditable Service.**—(a) [121] (1) [122] Except as otherwise specified by law, all periods of civilian and military and naval service, and all other periods through the date of final separation of a participant from the Service that the Secretary of State determines would be creditable toward retirement under the Civil Service Retirement and Disability System (as determined in accordance with section 8332 of title 5, United States Code), shall be creditable for purposes of this subchapter. Conversely, any such service performed after December 31, 1976, that would not be creditable under specified conditions under section 8332 of title 5, United States Code, shall be excluded under this chapter under the same conditions.

(2) [122] The service of an individual who first becomes a participant on or after the date of this Order without any credit under section 816 for civilian service performed prior to October 1, 1982, shall include credit for:

(A) each period of military or naval service performed before January 1, 1957, and

(B) each period of military or naval service performed after December 31, 1956, and before the separation on which the entitlement to annuity under this subchapter is based, only if a deposit (with interest if any is required) is made with respect to that period, as provided in section 805(e).

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[120] 22 U.S.C. 4056.

[121] Sec. 5 of Executive Order 12446 (October 17, 1983; 48 F.R. 48443) provided the following: "Sec. 5. *Recomputation at Age 62 of Credit for Military Service of Current Annuitants.* (a) Section 816(a) of the Act (22 U.S.C. 4056(a)) is deemed to be further amended so that the provisions of section 8332(j) of Title 5 of the United States Code, relating to credit for military service, shall not apply with respect to any individual who is entitled to an annuity under such Act on or before the date of approval of this Order, or who is entitled to an annuity based on a separation from service occurring on or before such date.

"(b) Subject to subsection (c), in any case in which an individual described in subsection (a) is also entitled to old-age or survivors insurance benefits under section 202 of the Social Security Act (or would be entitled to such benefits upon filing application therefor), the amount of the annuity to which such individual is entitled under chapter 8 of the Act (after taking into account subsection (a)) which is payable for any month shall be reduced by an amount determined by multiplying the amount of such old-age or survivors insurance benefit for the determination month by a fraction—

"(1) the numerator of which is the total of the wages (within the meaning of section 209 of the Social Security Act) for service referred to in section 210(1) of such Act (relating to service in the uniformed services) and deemed additional wages (within the meaning of section 229 of such Act) of such individual credited for years after 1956 and before the calendar year in which the determination month occurs, up to the contribution and benefit base determined under section 280 of the Social Security Act (or other applicable maximum annual amount referred to in section 215(e)(1) of such Act) for each such year, and

"(2) the denominator of which is the total of all wages deemed additional wages described in paragraph (1) of this subsection plus all other wages (within the meaning of section 209 of the Social Security Act) and all self-employment income (within the meaning of section 211(b) of such Act) of such individual credited for years after 1936 and before the calendar year in which the determination month occurs, up to the contribution and benefit base (or such other amount referred to in such section 215(e)(1) of such Act) for each such year.

"(c) Subsection (b) shall not reduce the annuity of any individual below the amount of the annuity which would be payable under chapter 8 of the Act to the individual for the determination month if section 8332(j) of Title 5 of the United States Code applied to the individual for such month.

"(d) For purposes of this section, the term (determination month) means—

"(1) the first month the individual described in subsection (a) is entitled to old-age or survivors insurance benefits under section 202 of the Social Security Act (or would be entitled to such benefits upon filing application therefor); or

"(2) the first day of the month following the month in which this Order is issued in the case of any individual so entitled to such benefits for such month.

"(e) The preceding provisions of this section shall take effect with respect to any annuity payment payable under chapter 8 of the Act for calendar months beginning after the date of this Order.

"(f) The Secretary of Health and Human Services shall furnish such information to the Secretary of State as may be necessary to carry out the preceding provisions of this section."

[122] Sec. 4(b) of Executive Order 12446 (October 17, 1983; 48 F.R. 48443) inserted the par. designation "(1)" and added a new par. (2), (3), and (4), effective October 17, 1983.

(3) [122] The service of an individual who first became a participant on or after the date of this Order with credit under section 816 for civilian service performed prior to October 1982, shall include credit for each period of military or naval service performed before the date of separation on which the entitlement to an annuity under this subchapter is based, subject, in the case of military or naval service performed after December 1956, to section 816(j), as deemed to be added by this Order.

(4) [122] The service of an individual who first became a participant before the date of this Order shall include credit for each period of military or naval service performed before the date of the separation on which the entitlement to an annuity under this subchapter is based, subject, in the case of military or naval service performed after December 1976, to section 816(j), as deemed to be added by this Order.

(b) In computing any annuity under this subchapter, the total service of a participant who retires on an immediate annuity or who dies leaving a survivor or survivors entitled to an annuity includes (without regard to the 35-year limitation imposed by section 806(a)) the days of unused sick leave to the credit of the participant, except that these days shall not be counted in determining average basic salary or annuity eligibility under this subchapter. A contribution to the Fund shall not be required from a participant for this service credit.

(c)(1) A participant who enters on approved leave without pay to serve as a full-time officer or employee of an organization composed primarily of Government employees may, within 60 days after entering on that leave without pay, file with the employing agency an election to receive full retirement credit for each such periods of leave without pay and arrange to pay concurrently into the Fund through the employing agency, amounts equal to the retirement deductions and agency contributions on the Foreign Service salary rate that would be applicable if the participant were in a pay status. If the election and all payments provided by this subsection are not made for the periods of such leave without pay occurring after November 7, 1976, the participant may not receive any credit for such periods of leave without pay occurring after such date.

(2) A participant may make a special contribution for any period or periods of approved leave without pay while serving before November 7, 1976, as a full-time officer or employee of an organization composed primarily of Government employees. Any such contribution shall be based upon the suspended Foreign Service salary rate and shall be computed in accordance with section 805. A participant who makes such contributions shall be allowed full retirement credit for the period or periods of leave without pay. If this contribution is not made, up to 6 months' retirement credit shall be allowed for such periods of leave without pay each calendar year.

(d)[123] A participant who has received a refund of retirement contributions (which has not been repaid) under this or any other retirement system for Government employees covering service which may be creditable may make a special contribution for such service under section 805. Credit may not be allowed for service covered by the refund unless the special contribution is made.

(e) No credit in annuity computation shall be allowed for any period of civilian service for which a participant made retirement contributions to another retirement system for Government employees unless—

(1) the right to any annuity under the other system which is based on such service is waived, and

(2) a special contribution is made under section 805 covering such service.

(f) A participant who during a period of war, or national emergency proclaimed by the President or declared by the Congress, leaves the Service to enter the military service is deemed, for the purpose of this subchapter, as not separated from the Service under section 815. However, the participant is deemed to be separated from the Service after the expiration of 5 years of such military service.

(g)(1) An annuity or survivor annuity based on the service of a participant of Japanese ancestry who would be eligible under section 8332(1) of title, 5, United States Code, for credit for civilian service for periods of internment during World War II shall, upon application to the Secretary of State, be recomputed to give credit for that service. Any such recomputation of an annuity shall apply with respect to months beginning more than 30 days after the date on which application for such recomputation is received by the Secretary of State.

(2) The Secretary of State shall take such action as many be necessary and appropriate to inform individuals entitled to have any service credited or annuity recomputed under this subsection of their entitlement to such credit or recomputation.

(3) The Secretary of State shall, on request, assist any individual referred to in paragraph (1) in obtaining from any agency or other Government establishment information necessary to verify the entitlement of the individual to have any service credited or any annuity recomputed under this subsection.

(4) Any agency or other Government establishment shall, upon request, furnish to the Secretary of State any information it possesses with respect to the internment or other detention, as de-

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[123] Sec. 1 of Executive Order 12446 (October 17, 1983; 48 F.R. 48443) provided the following:

"Section 1. *Interest Rates, Deposits, Refunds, and Redeposits.* (a) * * *

"(b) Sections 806(a) and 816(d) of the Act (22 U.S.C. 4046(a) and 4056(d)) are deemed to be amended to exclude from the computation of creditable civilian service under section 816(a) of the Act any period of civilian service for which retirement deductions or contribution have not been made under section 805(d) of the Act unless—

"(1) the participant makes a contribution for such period as provided in such section 805(d); or

"(2) no contribution is required for such service as provided under section 805(f) of the Act as deemed to be amended by this Order, or under any other statute.

"(c) The amendments deemed to be made by section 1 of this Order shall apply (i) to contributions for civilian service performed on or after the first day of the month following issuance of this Order, (ii) to contributions for prior refunds to participants for which application is received by the employing agency on and after such first day of the month, and (iii) to excess contributions under section 815(h) and voluntary contributions under section 825(a) from the first day of the month following issuance of this Order."

scribed in section 8332(l) of title 5, United States Code, of any participant.

(h) A participant who, while on approved leave without pay, serves as a full-time paid employee of a Member or office of the Congress shall continue to make contributions to the Fund based upon the Foreign Service salary rate that would be in effect if the participant were in a pay status. The participant's employing office in the Congress shall make a matching contribution (from the appropriation or fund which is used for payment of the salary of the participant) to the Treasury of the United States to the credit of the Fund. All periods of service for which full contributions to the Fund are made under this subsection shall be counted as creditable service for purposes of this subchapter and shall not, unless all retirement credit is transferred, be counted as creditable service under any other Government retirement system.

(i)(1) Service of a participant shall be considered creditable service for purposes of applying provisions of this subchapter relating to former spouses if such service would be creditable—

(A) under subsection (c) (1) or (2) but for the fact an election was not made under subsection (c)(1) or a special contribution was not made under subsection (c)(2), and

(B) under subsection (d) but for the fact that a refund of contributions has not been repaid unless the former spouse received under this subchapter a portion of the lump sum (or a spousal agreement or court order provided otherwise).

(2) A former spouse shall not be considered as married to a participant—

(A) for periods assumed to be creditable service under section 808(a) or section 809(e), or

(B) for any extra period of creditable service provided under section 817 for service of a participant at an unhealthful post unless the former spouse resided with the participant at that post during that period.

(j) [124] (1) Except as otherwise provided by statute or Executive Order, Section 8332(j) of Title 5, United States Code, relating to redetermination of credit for military and naval service, shall be applied to annuities payable under this subchapter. The Secretary of State shall redetermine service, and may request and obtain information from the Secretary of Health and Human Services, as the Office of Personnel Management is directed or authorized to do in Section 8332(j).

(2) Section 8332(j) of Title 5, United States Code, shall not apply with respect to:

(A) the service of any individual who first became a participant on or after the date of this Order without any credit under section 816 for civilian service performed prior to October 1982; or

(B) any military or naval service performed prior to 1957 by an individual who first became a participant on or after the date of this Order with credit under section 816 for civilian service performed prior to October 1982, or any period of military or naval service performed after 1956 with respect to which the participant has made a contribution (with interest if any is required) under section 805(e); or

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[124] Sec. 4(c) of Executive Order 12466 (October 17, 1983; 48 F.R. 48443) added subsec. (j), effective October 17, 1983.

(C) any military or naval service performed prior to 1977 by any individual who first became a participant before the date of this Order or any period of military or naval service performed after 1976 with respect to which the participant had made a contribution (with interest if any is required) under section 805(e).

Sec. 817.[125] **Extra Credit for Service at Unhealthful Posts.**—The Secretary of State may from time to time establish a list of places which by reason of climatic or other extreme conditions are to be classed as unhealthful posts. Each year of duty at such posts, inclusive of regular leaves of absence, shall be counted as one and a half years in computing the length of the service of a participant for the purpose of retirement, fractional months being considered as full months in computing such service. No such extra credit for service at such unhealthful posts shall be credited to any participant who is paid a differential under section 5925 or 5928 of title 5, United States Code, for such service.

Sec. 818.[126] **Estimate of Appropriations Needed.**—The Secretary of the Treasury shall prepare the estimates of the annual appropriations required to be made to the Fund, and shall make actuarial valuations of the System at intervals of not more than five years. The Secretary of State may expend from money to the credit of the Fund an amount not exceeding $5,000 per year for the incidental expenses necessary in administering the provisions of this subchapter, including actuarial advice.

Sec. 819.[127] **Investment of the Fund.**—The Secretary of the Treasury shall invest from time to time in interest-bearing securities of the United States such portions of the Fund as in the judgment of the Secretary of the Treasury may not be immediately required for the payment of annuities, cash benefits, refunds, and allowances. The income derived from such investments shall constitute a part of the Fund.

Sec. 820.[128] **Assignment and Attachment of Moneys.**—(a)(1) An individual entitled to an annuity from the Fund may make allotments or assignments of amounts from such annuity for such purposes as the Secretary of State in his or her sole discretion considers appropriate.

(2) Notwithstanding section 3477 of the Revised Statutes of the United States (31 U.S.C. 203) or any other law, a member of the Service who is entitled to receive benefits under section 609(b)(1) may assign to any person the whole or any part of those benefits. Any such assignment shall be on a form approved by the Secretary of the Treasury and a copy of such assignment form shall be deposited with the Secretary of the Treasury by the member executing the assignment.

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[125] 22 U.S.C. 4057.

[126] 22 U.S.C. 4058.

[127] 22 U.S.C. 4059.

[128] 22 U.S.C. 4060.

(b)(1)(A) In the case of any participant or annuitant who has a former spouse who is covered by a court order or who is a party to a spousal agreement—

(i) any right of the former spouse to any annuity under section 814(a) in connection with any retirement or disability annuity of the participant, and the amount of any such annuity;

(ii) any right of the former spouse to a survivor annuity under section 814 (b) or (c), and the amount of any such annuity; and

(iii) any right of the former spouse to any payment of a lump-sum credit under section 815 (a) or (b);

shall be determined in accordance with that spousal agreement or court order, if and to the extent expressly provided for in the terms of that spousal agreement or court order.

(B) This paragraph shall not apply in the case of any spousal agreement or court order which, as determined by the Secretary of State—

(i) would provide for a survivor annuity for a spouse or any former spouse of a participant with respect to which there has not been an annuity reduction (or a salary reduction or payment under section 814(c)(3)); or

(ii) is otherwise inconsistent with the requirements of this subchapter.

(2) Except with respect to obligations between participants and former spouses, payments under this subchapter which would otherwise be made to a participant or annuitant based upon his or her service shall be paid (in whole or in part) by the Secretary of State to another individual to the extent expressly provided for in the terms of any order or any court decree of legal separation, or the terms of any court order or court-approved property settlement agreement incident to any court decree of legal separation.

(3) Paragraphs (1) and (2) shall apply only to payments made under this subchapter for periods beginning after the date of receipt by the Secretary of State of written notice of such decree, order, or agreement, and such additional information and such documentation as the Secretary of State may require.

(4) Any payment under this subsection to an individual bars recovery by any other individual.

(5) The 10-year requirement of section 804(b)(6), or any other provision of this subchapter, shall not be construed to affect the rights any spouse or individual formerly married to a participant or annuitant may have, under any law or rule of law of any State or the District of Columbia, with respect to an annuity of a participant or annuitant under this subchapter.

(c) None of the moneys mentioned in this subchapter shall be assignable either in law or equity, except under subsection (a) or (b) of this section, or subject to execution, levy, attachment, garnishment, or other legal process, except as otherwise may be provided by Federal law.

Sec. 821.[129] **Payments for Future Benefits.**—(a) Any statute which authorizes—

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[129] 22 U.S.C. 4061.

(1) new or liberalized benefits payable from the Fund, under this subchapter, including annuity increases other than under section 825;

(2) extension of the benefits of the System to new groups of employees; or

(3) increases in salary on which benefits are computed;

is deemed to authorize appropriations to the Fund to finance the unfunded liability created by that statute, in 30 equal annual installments with interest computed at the rate used in the then most recent valuation of the System and with the first payment thereof due as of the end of the fiscal year in which each new or liberalized benefit, extension of benefits, or increase in salary is effective.

(b) There is authorized to be appropriated to the Fund for each fiscal year an amount equal to the amount of the Foreign Service normal cost for that year which is not met by contributions to the Fund under section 805(a).

Sec. 822.[130] **Unfunded Liability Obligations.**—(a) At the end of each fiscal year, the Secretary of State shall notify the Secretary of the Treasury of the amount equivalent to—

(1) interest on the unfunded liability computed for that year at the interest rate used in the then most recent valuation of the System, and

(2) that portion of disbursement for annuities for that year which the Secretary of State estimates is attributable to credit allowed for military and naval service, less an amount determined by the Secretary of State to be appropriate to reflect the value of the deposits made to the credit of the Fund under section 805(e).[131]

(b) Before closing the accounts for each fiscal year, the Secretary of the Treasury shall credit such amounts to the Fund, as a Government contribution, out of any money in the Treasury of the United States not otherwise appropriated.

(c) Requests for appropriations to the Fund under section 821(b) shall include reports to the Congress on the sums credited to the Fund under this section.

Sec. 823.[132] **Annuity Adjustment for Recall Service.**—(a) Any annuitant recalled to duty in the Service under section 308(a) shall, while so serving, be entitled in lieu of annuity to the full salary of the class in which serving. During such service the recalled annuitant shall make contributions to the Fund in accordance with section 805. On the day following termination of the recall service, the former annuity shall be resumed, adjusted by any cost-of-living increases under section 825 that became effective during the recall period.

(b) If the recall service lasts less than one year, the contributions of the annuitant to the Fund during recall service shall be refunded in accordance with section 815. If the recall service lasts more than one year, the annuitant may, in lieu of such refund, elect a supplemental annuity computed under section 806 on the basis of service credit and average salary earned during the recall period irrespective of the number of years of service credit previously earned. If the recall service continues for at least 5 years, the annuitant may elect to have his or her annuity determined anew under section 806 in lieu of any other benefits under this section. Any annuitant who is recalled under section 308 may upon written application count as recall service any prior service that is creditable under section 816 that was performed after the separation upon which his or her annuity is based.

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[130] 22 U.S.C. 4062.

[131] Sec. 4(d) of Executive Order 12446 (October 17, 1983; 48 F.R. 48443) added the words to this point beginning with", less an amount determined * * *". This amendment became effective on October 17, 1983.

[132] 22 U.S.C. 4063.

(c) [133] If an annuitant becomes subject to subchapter II of this chapter by reason of recall service—

(1) subsections (a) and (b) shall not apply to such annuitant; and

(2) section 824 shall apply to the recall service as if such service were reemployment.

Sec. 824.[134] **Reemployment.**—(a)(1)(A) Except in the case of an annuitant who makes an election under subsection (b), if any former participant, who has retired and is receiving an annuity under this subchapter or subchapter II of this chapter, becomes employed in an appointive or elective position in the Government, payment of any annuity under either subchapter to the annuitant shall terminate effective on the date of the employment and the reemployment service shall be covered service under the rules of the system under which the appointment is made.

(B) If the annuity of an individual is terminated under subparagraph (A) and that individual becomes covered under the same retirement system from which that annuity is terminated, that individual shall be entitled to a redetermination of rights under that system upon termination of the employment.

(C) If the annuity is terminated and the individual becomes covered under another contributory retirement system for Government employees pursuant to paragraph (A), the individual shall be entitled to benefits under the rules of that system. In addition, the individual shall be entitled to a resumption of any annuity terminated by reason of the employment.

(b)(1) A participant who is entitled to an annuity under this subchapter or subchapter II of this chapter and becomes employed in an appointive or elective position in the Government on a part-time, intermittent, or temporary basis may elect to continue to receive either or both annuities as provided in this subsection.

(2) The total annuity payable under this chapter to an annuitant making an election under paragraph (1) shall be reduced during the part-time, intermittent, or temporary employment referred to in paragraph (1) as necessary to meet the requirements of paragraph (3).

(3) The sum of—

(A) the total annuity payable under this chapter to an annuitant making an election under paragraph (1), and

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[133] Subsection (c) was added by sec. 409 of Public Law 99-335 (100 Stat 612).

[134] 22 U.S.C. 4064. This section was comprehensively amended and restated by section 410 of Public Law 99-335 (100 Stat. 613).

(B) the annual rate of pay payable to the annuitant during the part-time, intermittent, or temporary employment referred to in paragraph (1),

may not exceed, in any calendar year, the highest annual rate of pay which is payable during such year for full-time employment in the position in which the annuitant is employed.

(4) Upon termination of the part-time, intermittent, or temporary employment referred to in paragraph (1), payment of the full annuity of an annuitant who has made an election under paragraph (1) of this subsection shall resume.

(c) The amount of annuity which has been terminated or reduced under this section by reason of the reemployment of the annuitant and is resumed under this section shall be the amount of the annuity which would have been payable if the annuitant had not accepted the reemployment. The amount of an annuity resulting from a redetermination of rights pursuant to subsection (a) shall not be less than the amount of an annuity resumed under the previous sentence.

(d) The annuity rights of any participant who is reemployed in the Government shall be determined under this section instead of section 8468 of title 5, United States Code.

(e) When any such retired participant is reemployed, the employer shall send a notice of such reemployment to the Secretary of State, together with all pertinent information relating to such employment, and shall pay directly to such participant the salary of the position in which he or she is serving.

(f) In the event of any overpayment under this section, such overpayment shall be recovered by withholding the amount involved from the salary payable to such reemployed participant or from any other moneys, including annuity payments, payable under this chapter.[135]

Sec. 825.[136] **Voluntary Contributions.**—(a) [137] The voluntary contribution account shall be the sum of unrefunded amounts voluntarily contributed prior to the effective date of this Act by any participant or former participant under any prior law authorizing such contributions to the Fund, plus interest compounded at the rate of 3 percent per year to the date of separation from the Service or (in case of participant or former participant separated with entitlement to a deferred annuity) to the date the voluntary contribution account is claimed, the commencing date fixed for the deferred annuity, or the date of death, whichever is earlier. Effective on the date the participant becomes eligible for an annuity or a deferred annuity and at the election of the participant, his or her account shall be—

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[135] The word "chapter" probably should read "subchapter". See footnote 84.

[136] 22 U.S.C. 4065.

[137] Sec. 1 of Executive Order 12446 (October 17, 1983; 48 F.R. 48443) provided the following:

"Section 1. *Interest Rates, Deposits, Refunds, and Redeposits.* (a) The second sentence of Section 805(d)(3) of the Act (22 U.S.C. 4045(d)(3)), the first sentence of sec. 815(h) (22 U.S.C. 4055(h)), and the first sentence of Section 825(a) (22 U.S.C. 4065(a)), are deemed to be amended to provide that interest shall be compounded at the annual rate of 3 percent per annum through December 31, 1984, and thereafter at a rate equal to the overall average yield to the Fund during the preceding fiscal year from all obligations purchased by the Secretary of the Treasury during such fiscal year under section 819, as determined by the Secretary of the Treasury.

"(b) * * *

"(c) The amendments deemed to be made by section 1 of this Order shall apply (i) to contributions for civil service performed on or after the first day of the month following issuance of this Order, (ii) to contributions for prior refunds to participants for which application is received by the employing agency on and after such first day of the month, and (iii) to excess contributions under section 815(h) and voluntary contributions under section 825(a) from the first day of the month following issuance of this Order."

(1) returned in a lump sum;

(2) used to purchase an additional life annuity;

(3) used to purchase an additional life annuity for the participant and to provide for a cash payment on his or her death to a beneficiary whose name shall be notified in writing to the Secretary of State by the participant; or

(4) used to purchase an additional life annuity for the participant and a life annuity commencing on his or her death payable to a beneficiary whose name shall be notified in writing to the Secretary of State by the participant, with a guaranteed return to the beneficiary or his or her legal representative of an amount equal to the cash payment referred to in paragraph (3).

(b) The benefits provided by subsection (a) (2), (3), or (4) shall be actuarially equivalent in value to the payment provided for by subsection (a)(1) and shall be calculated upon such tables of mortality as may be from time to time prescribed for this purpose by the Secretary of the Treasury.

(c) A voluntary contribution account shall be paid in a lump sum following receipt of an application therefor from a present or former participant if application is filed prior to payment of any additional annuity. If not sooner paid, the account shall be paid at such time as the participant separates from the Service for any reason without entitlement to an annuity or a deferred annuity or at such time as a former participant dies or withdraws compulsory contributions to the Fund. In case of death, the account shall be paid in the order of precedence specified in section 815(f).

Sec. 826.[138] **Cost-of-Living Adjustments of Annuities.**—(a) A cost-of-living annuity increase shall become effective under this section on the effective date of each such increase under section 8340(b) of title 5, United States Code. Each such increase shall be applied to each annuity payable from the Fund under this subchapter which has a commencing date not later than the effective date of the increase.

(b) Each annuity increase under this section shall be identical to the corresponding percentage increase under section 8340(b) of title 5, United States Code.

(c) Eligibility for an annuity increase under this section shall be governed by the commencing date of each annuity payable from the Fund as of the effective date of an increase except as follows:

(1) [138] The first increase (if any) made under this section to an annuity which is payable from the Fund under this subchapter to a participant or to the surviving spouse of a deceased participant who dies in service shall be equal to the product (adjusted to the nearest $\frac{1}{10}$ of 1 percent) of—

(a) $\frac{1}{6}$ of the applicable percent change determined under Subsection (b) of this Section, multiplied by

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[138] 22 U.S.C. 4066. The first sentence of subsection (c)(1) of sec. 826 was amended and restated by sec. 1 of Executive Order 12289 (February 14, 1981, 46 F.R. 12693).

(b) the number of full months for which the annuity was payable from the Fund under this subchapter before the effective date of the increase (counting any portion of a month as a full month).

In the administration of this paragraph, the number of days of unused sick leave to the credit of a participant or deceased participant on the effective date of the then last preceding general annuity increase under this section shall be deemed to be equal to the number of days of unused sick leave to his or her credit on the day of separation from the Service.

(2) Effective from its commencing date, an annuity under this subchapter payable from the Fund to the survivor of an annuitant, except a child entitled to an annuity under section 806(c) or 809 (c) or (d), shall be increased by the total percentage increase the annuitant was receiving under this section at death.

(3) For purposes of computing or recomputing an annuity to a child under section 806 (c) or (d) or 809 (c) or (d), the items $900, $1,080, $2,700, and $3,240 appearing in section 806(c) shall be increased by the total percentage increases by which correspondence amounts are being increased under section 8340 of title 5, United States Code, on the date the annuity of the child becomes effective.

(d) No increase in annuity provided by this section shall be computed on any additional annuity purchased at retirement by voluntary contributions.

(e) The monthly installment of annuity after adjustment under this section shall be rounded to the next lowest dollar,[139] except such installment shall after adjustment reflect an increase of at least $1.

(g) [140] (1) An annuity shall not be increased by reason of any adjustment under this section to an amount which exceeds the greater of—

(A) the maximum pay rate payable for class FS-1 under section 403, 30 days before the effective date of the adjustment under this section; or

(B) the final pay (or average pay, if higher) of the former participant with respect to whom the annuity is paid, increased by the overall annual average percentage adjustments (compounded) in rates of pay of the Foreign Service Schedule under such section 403 during the period—

(i) beginning on the date the annuity commenced (or, in the case of a survivor of the retired participant, the date the participant's annuity commenced), and

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[139] Sec. 2(a) of Executive Order 12446 (October 17, 1983; 38 F.R. 48443) substituted the words "rounded to the next lowest" in lieu of the words "fixed at the nearest". Sec. 2(b) of Executive Order 12446 further stated that this amendment "shall be effective with respect to any adjustment or redetermination of any annuity made on or after the date of this Order."

[140] Sec. 6(a) of Executive Order 12446 (October 17, 1983; 48 F.R. 48443) added subsec. (g). Sec. 6(b) of Executive Order 12446 provided the following:

"(b) The amendment made by subsection (a) of this Section shall not cause any annuity to be reduced below the rate that is payable on the date of approval of this Order, but shall apply to any adjustment occurring on or after April 1, 1983 under Section 826 of the Act to any annuity payable from the Foreign Service Retirement and Disability Fund, whether such annuity has a commencing date before, on, or after the date of this Order."

(ii) ending on the effective date of the adjustment under this section.

(2) For the purposes of paragraph (1) of this subsection, "pay" means the rate of salary or basic pay as payable under any provision of law, including any provisions of law limiting the expenditure of appropriated funds.

(f) Effective from its commencing date, there shall be an increase of 10 percent in the annuity of each surviving spouse whose entitlement to annuity resulted from the death of an annuitant who, prior to October 1, 1976, elected a reduced annuity in order to provide a spouse's survivor annuity.

Sec. 827.[141] **Compatibility Between Civil Service and Foreign Service Retirement Systems.**—(a) In order to maintain existing conformity between the Civil Service Retirement and Disability System under subchapter III of chapter 83 of title 5, United States Code, and the Foreign Service Retirement and Disability System, whenever a law of general applicability is enacted which—

(1) affects the treatment of current or former participants, annuitants, or survivors under the Civil Service Retirement and Disability System; and

(2) affects treatment which, immediately prior to the enactment of such law, was substantially identical to the treatment accorded to participants, former participants, annuitants, or survivors under the Foreign Service Retirement and Disability System;

such law shall be extended in accordance with subsection (b) to the Foreign Service Retirement and Disability System so that it applies in like manner with respect to participants, former participants, annuitants, or survivors under that System.

(b) The President shall by Executive order prescribe regulations to implement this section and may make such extension retroactive to a date no earlier than the effective date of the provision of law applicable to the Civil Service Retirement and Disability System. Any provision of an Executive order issued under this section shall modify, supersede, or render inapplicable, as the case may be, to the extent inconsistent therewith—

(1) all provisions of law enacted prior to the effective date of that provision of the Executive order, and

(2) any prior provision of an Executive order issued under this section.

(c) [142] The President shall maintain, under the same conditions and in the same manner as provided in subsections (a) and (b) existing conformity between the Federal Employees' Retirement System provided in chapter 84 of title 5, United States Code, and the Foreign Service Pension System provided in subchapter II of this chapter.

Sec. 828.[143] **Remarriage.**—Notwithstanding any other provision of this subchapter, any benefit payable under this subchapter to a surviving spouse, former spouse, or surviving former spouse that would otherwise terminate or be lost if the individual remarried before 60 years of age, shall not terminate or be lost if the remarriage occurred on or after November 8, 1984, and the individual was 55 years of age or over on the date of the remarriage.

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[141] 22 U.S.C. 4067.

[142] Subsection (c) was added by sec. 411 of Public Law 99-335 (100 Stat. 614).

[143] Section 828 was added by sec. 412 of Public Law 99-335 (100 Stat. 614). Sec. 829 was added by sec. 404(a) of Public Law 99-556 (100 Stat. 3137).

Sec. 829.[143] **Thrift Savings Fund Participation.**—Participants in this System shall be deemed to be employees for the purposes of section 8351 of Title 5. Any reference in such section 8351 or in subchapter III of chapter 84 of such Title 5 to retirement or separation under subchapter III of chapter 83 or chapter 84 of such Title 5 shall be deemed to be references to retirement or separation under part I or II of this subchapter with similar benefits or entitlements with respect to participants under such part I or II of this subchapter, respectively.

Sec. 830.[144] **Retirement Benefits For Certain Former Spouses.**—(a) Any individual who was a former spouse of a participant or former participant on February 14, 1981, shall be entitled, to the extent or in such amounts as are provided in advance in appropriations Acts, and except to the extent such former spouse is disqualified under subsection (b), to benefits—

(1) if married to the participant throughout the creditable service of the participant, equal to 50 percent of the benefits of the participant; or

(2) if not married to the participant throughout such creditable service, equal to that former spouse's pro rata share of 50 percent of such benefits.

(b) A former spouse shall not be entitled to benefits under this section if—

(1) the former spouse remarries before age 55; or

(2) the former spouse was not married to the participant at least 10 years during service of the participant which is creditable under this chapter with at least 5 years occurring while the participant was a member of the Foreign Service.

(c)(1) The entitlement of a former spouse to benefits under this section—

(A) shall commence on the later of—

(i) the day the participant upon whose service the benefits are based becomes entitled to benefits under this chapter; or

(ii) the first day of the month in which the divorce or annulment involved becomes final; and

(B) shall terminate on the earlier of—

(i) the last day of the month before the former spouse dies or remarries before 55 years of age; or

(ii) the date the benefits of the participant terminates.

(2) Notwithstanding paragraph (1), in the case of any former spouse of a disability annuitant—

(A) the benefits of the former spouse shall commence on the date the participant would qualify on the basis of his or her creditable service for benefits under this chapter (other than a disability annuity) or the date the disability annuity begins, whichever is later, and

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[144] Sections 830, 831 and 832 were added by sec. 188 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204, 101 Stat. 1369). They are at 22 U.S.C. 4069a, 4069b and 4069c, respectively.

(B) the amount of benefits of the former spouse shall be calculated on the basis of benefits for which the participant would otherwise so qualify.

(3) Benefits under this section shall be treated the same as an annuity under section 814(a)(7) for purposes of section 806(h) or any comparable provision of law.

(4)(A) Benefits under this section shall not be payable unless appropriate written application is provided to the Secretary, complete with any supporting documentation which the Secretary may by regulation require, within 30 months after the effective date of this section. The Secretary may waive the 30-month application requirement under this subparagraph in any case in which the Secretary determines that the circumstances so warrant.

(B) Upon approval of an application provided under subparagraph (A), the appropriate benefits shall be payable to the former spouse with respect to all periods before such approval during which the former spouse was entitled to such benefits under this section, but in no event shall benefits be payable under this section with respect to any period before the effective date of this section.

(d) For the purposes of this section, the term 'benefits' means—

(1) with respect to a participant or former participant subject to this subchapter, the annuity of the participant or former participant; and

(2) with respect to a participant or former participant subject to subchapter II, the benefits of the participant or former participant under that subchapter.

(e) Nothing in this section shall be construed to impair, reduce, or otherwise affect the annuity or the entitlement to an annuity of a participant or former participant under this chapter.

Sec. 831.[144] Survivor Benefits For Certain Former Spouses.—(a) Any individual who was a former spouse of a participant or former participant on February 14, 1981, shall be entitled, to the extent or in such amounts as are provided in advance in appropriations Acts, and except to the extent such former spouse is disqualified under subsection (b), to a survivor annuity equal to 55 percent of the greater of—

(1) the full amount of the participant's or former participant's annuity, as computed under this chapter; or

(2) the full amount of what such annuity as so computed would be if the participant or former participant had not withdrawn a lump-sum portion of contributions made with respect to such annuity.

(b) If an election has been made with respect to such former spouse under section 2109 or 806(f), then the survivor annuity under subsection (a) of such former spouse shall be equal to the full amount of the participant's or former participant's annuity referred to in subsection (a) less the amount of such election.

(c) A former spouse shall not be entitled to a survivor annuity under this section if—

(1) the former spouse remarries before age 55; or

(2) the former spouse was not married to the participant at least 10 years during service of the participant which is credit-

able under this chapter with at least 5 years occurring while the participant was a member of the Foreign Service.

(d)(1) The entitlement of a former spouse to a survivor annuity under this section—

(A) shall commence—

(i) in the case of a former spouse of a participant or former participant who is deceased as of the effective date of this section, beginning on such date; and

(ii) in the case of any other former spouse, beginning on the later of—

(I) the date that the participant or former participant to whom the former spouse was married dies; or

(II) the effective date of this section; and

(B) shall terminate on the last day of the month before the former spouse's death or remarriage before attaining the age 55.

(2)(A) A survivor annuity under this section shall not be payable unless appropriate written application is provided to the Secretary, complete with any supporting documentation which the Secretary may by regulation require, within 30 months after the effective date of this section. The Secretary may waive the 30-month application requirement under this subparagraph in any case in which the Secretary determines that the circumstances so warrant.

(B) Upon approval of an application provided under subparagraph (A), the appropriate survivor annuity shall be payable to the former spouse with respect to all periods before such approval during which the former spouse was entitled to such annuity under this section, but in no event shall a survivor annuity be payable under this section with respect to any period before the effective date of this section.

(e) The Secretary shall—

(1) as soon as possible, but not later than 60 days after the effective date of this section, issue such regulations as may be necessary to carry out this section; and

(2) to the extent practicable, and as soon as possible, inform each individual who was a former spouse of a participant or former participant on February 14, 1981, of any rights which such individual may have under this section.

(f) Nothing in this section shall be construed to impair, reduce, or otherwise affect the annuity or the entitlement to an annuity of a participant or former participant under this chapter.

Sec. 832.[144] **Health Benefits For Certain Former Spouses.**—(a) Except as provided in subsection (c)(1), any individual—

(1) formerly married to an employee or former employee of the Foreign Service, whose marriage was dissolved by divorce or annulment before May 7, 1985;

(2) who, at any time during the 18-month period before the divorce or annulment became final, was covered under a health benefits plan as a member of the family of such employee or former employee; and

(3) who was married to such employee for not less than 10 years during periods of government service by such employee, is eligible for coverage under a health benefits plan in accordance with the provisions of this section.

(b)(1) Any individual eligible for coverage under subsection (a) may enroll in a health benefits plan for self alone or for self and family if, before the expiration of the 6-month period beginning on the effective date of this section, and in accordance with such procedures as the Director of the Office of Personnel Management shall by regulation prescribe, such individual—

(A) files an election for such enrollment; and

(B) arranges to pay currently into the Employees Health Benefits Fund under section 8909 of title 5, United States Code, an amount equal to the sum of the employee and agency contributions payable in the case of an employee enrolled under chapter 89 of such title in the same health benefits plan and with the same level of benefits.

(2) The Secretary shall, as soon as possible, take all steps practicable—

(A) to determine the identity and current address of each former spouse eligible for coverage under subsection (a); and

(B) to notify each such former spouse of that individual's rights under this section.

(3) The Secretary shall waive the 6-month limitation set forth in paragraph (1) in any case in which the Secretary determines that the circumstances so warrant.

(c)(1) Any former spouse who remarries before age 55 is not eligible to make an election under subsection (b)(1).

(2) Any former spouse enrolled in a health benefits plan pursuant to an election under subsection (b)(1) may continue the enrollment under the conditions of eligibility which the Director of the Office of Personnel Management shall by regulation prescribe, except that any former spouse who remarries before age 55 shall not be eligible for continued enrollment under this section after the end of the 31-day period beginning on the date of remarriage.

(d) No individual may be covered by a health benefits plan under this section during any period in which such individual is enrolled in a health benefits plan under any other authority, nor may any individual be covered under more than one enrollment under this section.

(e) For purposes of this section the term "health benefits plan" means an approved health benefits plan under chapter 89 of title 5, United States Code.

SUBCHAPTER II—FOREIGN SERVICE PENSION SYSTEM [145]

Sec. 851.[145] Establishment.—(a) There is hereby established a Foreign Service Pension System.

(b) Except as otherwise specifically provided in this subchapter or any other provision of law, the provisions of chapter 84 of title 5, United States Code, shall apply to all participants in the Foreign Service Pension System and such participants shall be treated in all respects similar to persons whose participation in the Federal Employees' Retirement System provided in that chapter is required.

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[145] Subchapter II and the sections contained therein were added by sec. 415 of Public Law 99-335 (100 Stat. 615).

Sec. 852.[145] **Definitions.**—As used in this subchapter, unless otherwise specified—

(1) the term "court order" has the same meaning given in section 804(4);

(2) the term "Fund" means the Foreign Service Retirement and Disability Fund maintained by the Secretary of the Treasury pursuant to section 802;

(3) the term "normal cost" means the entry-age normal cost of the provisions of the System which relate to the Fund, computed by the Secretary of State in accordance with generally accepted actuarial practice and standards (using dynamic assumptions) and expressed as a level percentage of aggregate basic pay;

(4) the term "participant" means a person who participates in the Foreign Service Pension System;

(5) the term "pro rata share" in the case of any former spouse of any participant or former participant means the percentage which is equal to the percentage that (A) the number of years during which the former spouse was married to the participant during the service of the participant which is creditable under this chapter is of (B) the total number of years of such service, disregarding extra credit under section 817;

(6) the term "supplemental liability" means the estimated excess of—

(A) the actuarial present value of all future benefits payable from the Fund under this subchapter based on the service of participants or former participants, over

(B) the sum of—

(i) the actuarial present value of (I) deductions to be withheld from the future basic pay of participants pursuant to section 856 and (II) contributions for past civilian and military service;

(ii) the actuarial present value of future contributions to be made pursuant to section 857;

(iii) the Fund balance as of the date the supplemental liability is determined, to the extent that such balance is attributable—

(I) to the System, or

(II) to the contributions made under the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983 (5 U.S.C. 8331 note); and

(iv) any other appropriate amount, as determined by the Secretary of State in accordance with generally accepted actuarial practices and principles; and

(7) the term "System" means the Foreign Service Pension System.

Sec. 853.[145] **Participants.**—(a) Except for persons excluded by subsection (b), (c), or (d), all members of the Foreign Service, any of whose service after December 31, 1983, is employment for the purpose of title II of the Social Security Act and chapter 21 of the Internal Revenue Code of 1954, who would, but for this section, be participants in the Foreign Service Retirement and Disability System pursuant to section 803 shall instead be participants in the Foreign Service Pension System.

(b) Members of the Service who were participants in the Foreign Service Retirement and Disability System on or before December 31, 1983, and who have not had a break in service in excess of one year since that date, are not made participants in the System by this section, without regard to whether they are subject to title II of the Social Security Act.

(c) Individuals who become members of the Service after having completed at least 5 years of civilian service creditable under subchapter I, subchapter III of chapter 83 of title 5, United States Code (the Civil Service Retirement System), or title II of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (determined without regard to any deposit or redeposit requirement under any such subchapter or title, any requirement that the individual become subject to such subchapter or title after performing the service involved, or any requirement that the individual give notice in writing to the official by whom such individual is paid of such individual's desire to become subject to such subchapter or title) are not participants in the System, except to the extent provided for under title III of the Federal Employees' Retirement System Act of 1986 pursuant to an election under such title to become subject to this subchapter (under regulations issued by the Secretary of State pursuant to section 860).

(d) The Secretary may exclude from the operation of this subchapter any member of the Foreign Service, or group of members, whose employment is temporary or intermittent, except a member whose employment is part-time career appointment or career candidate appointment under section 306.

Sec. 854.[145] **Creditable Service.**—(a) For purposes of this subchapter, creditable service of a participant includes—

(1) service as a participant after December 31, 1986;

(2) service with respect to which deductions and withholdings under section 204(a)(2) of the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983 have been made; and

(3) except as provided in subsection (b), any civilian service performed before January 1, 1989 (other than service under paragraph (1) or (2)), which, but for the amendment made by section 414 of the Federal Employees' Retirement System Act of 1986, would be creditable under subchapter I (determined without regard to any deposit or redeposit requirement under such subchapter, subchapter III of chapter 83 of title 5, United States Code (the Civil Service Retirement System), or title II of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, any requirement that the individual become subject to such subchapter or title after performing the service involved, or any requirement that the individual give notice in writing to the official by whom such individual is paid of such individual's desire to become subject to such subchapter or title).

(b)(1) A participant who has received a refund of retirement deductions under subchapter I with respect to any service described in subsection (a)(3) may not be allowed credit for such service under this subchapter unless such participant deposits into the

Fund an amount equal to 1.3 percent of basic pay for such service, with interest.

(2) A participant may not be allowed credit under this subchapter for any service described in subsection (a)(3) for which retirement deductions under subchapter I have not been made, unless such participant deposits into the Fund an amount equal to 1.3 percent of basic pay for such service, with interest.

(3) Interest under paragraph (1) or (2) shall be computed in accordance with section 805(d) and regulations issued by the Secretary of State.

(c) Credit shall be given under this System to a participant for a period of prior satisfactory service as—

(1) a volunteer or volunteer leader under the Peace Corps Act (22 U.S.C. 2501 et seq.),

(2) a volunteer under part A of title VIII of the Economic Opportunity Act of 1964, or

(3) a full-time volunteer for a period of service of at least one year's duration under part A, B, or C of title I of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 et seq.),

if the participant makes a payment to the Fund equal to 3 percent of pay received for the volunteer service (as determined in accordance with regulations of the Secretary of State consistent with regulations for making corresponding determinations under chapter 83, title 5, United States Code) together with interest determined under regulations issued by the Secretary of State.

(d) Credit shall be given under this System to a participant for a period of prior service under the Federal Employees' Retirement System (described in chapter 84 of title 5, United States Code) or under title III of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees if the participant waives credit under the other retirement system and makes a payment to the Fund equal to the amount which would have been deducted from pay under section 856(a) had the individual been a participant during the prior creditable service under the other retirement system together with interest on such amount computed in accordance with regulations issued by the Secretary of State.

Sec. 855.[145] **Entitlement to Annuity.**—(a)(1) Any participant may be retired under the conditions specified in section 811 and shall be retired under the conditions specified in sections 812 and 813 and receive benefits under this subchapter.

(2) For the purposes of this subsection—

(A) the term "participant", as used in the sections referred to in paragraph (1), means a participant in the Foreign Service Pension System; and

(B) the term "System", as used in those sections, means the Foreign Service Pension System.

(b)(1) Any participant who retires voluntarily or mandatorily under section 607, 608, 811, 812, or 813 under conditions authorizing an immediate annuity for participants in the Foreign Service Retirement and Disability System and who has completed at least 5 years of service subject to this chapter shall be entitled to an immediate annuity computed under paragraph (2).

(2) An annuity under paragraph (1) shall be computed—

(A) for all service earned while a participant in this System, at the rate stated in section 8415(d) of title 5, United States Code; and

(B) for all service earned while a participant in another retirement system creditable under section 854(d), at the rate which would have been applicable to the individual had the individual remained a participant in the other system; and

(C) for all volunteer service creditable under section 854(c), at the rate stated in section 8415(a) of title 5, United States Code.

(c) A participant who is entitled to an immediate annuity under subsection (b) shall be entitled to receive an annuity supplement while the annuitant is under 62 years of age. The annuity supplement shall be based on the total creditable service of the annuitant and shall be computed in accordance with sections 8421(b) and 8421a of title 5, United States Code, as if the participant were a law enforcement officer retired under section 8412(d) of such title.

(d) Any participant who is separated for cause under section 610 shall not be entitled to an annuity under this System when the Secretary determines that the separation was based in whole or in part on disloyalty to the United States.

Sec. 856.[145] **Deductions and Withholdings From Pay.**—(a) The employing agency shall deduct and withhold from basic pay of each participant a percentage of basic pay equal to 7½ percent minus the percentage then in effect under section 3101(a) of the Internal Revenue Code of 1954 (relating to the rate of tax for old age, survivors and disability insurance).

(b) Each participant is deemed to consent and agree to the deductions under subsection (a). Notwithstanding any law or regulation affecting the pay of a participant, payment less such deductions is a full and complete discharge and acquittance of all claims and demands for regular services during the period covered by the payment, except the right to any benefits under this subchapter based on the service of the participant.

(c) Amounts deducted and withheld under this section shall be deposited in the Treasury of the United States to the credit of the Fund under such procedures as the Comptroller General of the United States may prescribe.

(d) Under such regulations as the Secretary of State may issue, amounts deducted under subsection (a) shall be entered on individual retirement records.

Sec. 857.[145] **Government Contributions.**—(a) Each agency employing any participant shall contribute to the Fund the amount computed in a manner similar to that used under section 8423(a) of title 5, United States Code, pursuant to determinations of the normal cost percentage for the Foreign Service Pension System by the Secretary of State.

(b)(1) The Secretary of State shall compute the amount of the supplemental liability of the Fund as of the close of each fiscal year beginning after September 30, 1987. The amount of any such supplemental liability shall be amortized in 30 equal annual installments with interest computed at the rate used in the most recent valuation of the System.

(2) At the end of each fiscal year, the Secretary of State shall notify the Secretary of the Treasury of the amount of the installment computed under this subsection for such year.

(3) Before closing the accounts for a fiscal year, the Secretary of the Treasury shall credit to the Fund, as a Government contribution, out of any money in the Treasury of the United States not otherwise appropriated, the amount under paragraph (2) of this subsection for such year.

Sec. 858.[145] **Cost-of-Living Adjustments.**—Cost-of-living adjustments for annuitants under this System shall be granted under procedures in section 8462 of title 5, United States Code, in the same manner as such adjustments are made for annuitants referred to in subsection (c)(3)(B)(ii) of such section.

Sec. 859.[145] **General and Administrative Provisions.**—(a) The Secretary of State shall administer the Foreign Service Pension System except for matters relating to the Thrift Savings Plan provided in subchapter III and VI of chapter 84 of title 5, United States Code. The Secretary of State shall, with respect to the Foreign Service Pension System, perform the functions and exercise the authority vested in the Office of Personnel Management or the Director of such Office by such chapter 84 and may issue regulations for such purposes.

(b) Determinations of the Secretary of State under the Foreign Service Pension System which, if made by the Office of Personnel Management under chapter 84 title 5, United States Code, or the Director of such Office, would be appealable to the Merit Systems Protection Board, except that determinations of disability for participants shall be based upon the standards in section 808 (other than the exclusion for vicious habits, intemperance, or willful misconduct) and subject to review in the same manner as under that section.

(c) At least every 5 years, the Secretary of the Treasury shall prepare periodic valuations of the Foreign Service Pension System and shall advise the Secretary of State of (1) the normal cost of the System, (2) the supplemental liability of the System, and (3) the amounts necessary to finance the costs of the System.

Sec. 860.[145] **Transition Provisions.**—The Secretary of State shall issue regulations providing for the transition from the Foreign Service Retirement and Disability System to the Foreign Service Pension System in a manner comparable to the transition of employees subject to subchapter III of chapter 83 of title 5, United States Code (the Civil Service Retirement System), to the Federal Employees' Retirement System. For this and related purposes, references made to participation in subchapter III of chapter 83 of title 5, United States Code (the Civil Service Retirement System), the Social Security Act, and the Internal Revenue Code of 1954 shall be deemed to refer to participation in the Foreign Service Pension System or the Foreign Service Retirement and Disability System, as appropriate.

Sec. 861.[145] **Former Spouses.**—(a)(1)(A) Unless otherwise expressly provided by any spousal agreement or court order governing disposition of benefits under this subchapter, a former spouse of a participant or former participant is entitled, during the period described in subchapter (B), to a share (determined under paragraph

(2)) of all benefits otherwise payable to such participant under this subchapter if such former spouse was married to the participant for at least 10 years during service of the participant which is creditable under this chapter with at least 5 of such years occurring while the participant was a member of the Foreign Service.

(B) The period referred to in subparagraph (A) is the period which begins on the first day of the month following the month in which the divorce or annulment becomes final and ends on the last day of the month before the former spouse dies or remarries before 55 years of age.

(2) The share referred to in paragraph (1) equals—

(A) 50 percent, if such former spouse was married to the participant throughout the actual years of service of the participant which are creditable under this chapter; or

(B) a pro rata share of 50 percent, if such former spouse was not married to the participant throughout such creditable service.

(3) A former spouse shall not be qualified for any benefit under this subsection if, before the commencement of any benefit, the former spouse remarries before becoming 55 years of age.

(4)(A) For purposes of the Internal Revenue Code of 1954, payments to a former spouse under this section shall be treated as income to the former spouse and not to the participant.

(B) Any reduction in payments to a participant or former participant as a result of payments to a former spouse under this subsection shall be disregarded in calculating—

(i) the survivor annuity for any spouse, former spouse, or other survivor under this subchapter, and

(ii) any reduction in the annuity of the participant to provide survivor benefits under this subchapter.

(5) Notwithstanding subsection (a)(1), in the case of any former spouse of a disability annuitant—

(A) the annuity of the former spouse shall commence on the date the participant would qualify, on the basis of his or her creditable service, for an annuity under this chapter (other than a disability annuity) or the date the disability annuity begins, whichever is later, and

(B) the amount of the annuity of the former spouse shall be calculated on the basis of the annuity for which the participant would otherwise so qualify.

(6)(A) Except as provided in subparagraph (B), any former spouse who becomes entitled to receive any benefit under this subchapter which would otherwise be payable to a participant or former participant shall be entitled to make any election regarding method of payment to such former spouse that such participant would have otherwise been entitled to elect, and the participant may elect an alternate method for the remaining share of such benefits. Such elections shall not increase the actuarial present value of benefits expected to be paid under this subchapter.

(B) A former spouse may not elect a method of payment under subchapter II, chapter 84 of title 5, United States Code, providing for payment of a survivor annuity to any survivor of the former spouse.

(7) The maximum amount payable to any former spouse pursuant to this subsection shall be the difference, if any, between 50 percent of the total benefits authorized to be paid to a former participant by this subchapter, disregarding any apportionment of these benefits to others, and the aggregate amount payable to all others at any one time.

(b)(1) Unless otherwise expressly provided for by any spousal agreement or court order governing survivorship benefits under this subchapter to a former spouse married to a participant or former participant for the periods specified in subsection (a)(1)(A), such former spouse is entitled to a share, determined under subsection (b)(2), of all survivor benefits that would otherwise be payable under this subchapter to an eligible surviving spouse of the participant.

(2) The share referred to in subsection (b)(1) equals—

(A) 100 percent if such former spouse was married to the participant throughout the entire period of service of the participant which is creditable under this chapter; or

(B) a pro rata share of 100 percent if such former spouse was not married to the participant throughout such creditable service.

(c) A participant or former participant may not make any election or modification of election under section 8417, 8418, or 8433 of title 5, United States Code, or other section relating to the participant's account in the Thrift Savings Plan or annuity under the basic plan that would diminish the entitlement of a former spouse to any benefit granted to the former spouse by this section or in a current spousal agreement.

(d) If a member becomes a participant under this subchapter after qualifying for benefits under subchapter I and, at the time of transfer, has a former spouse entitled to benefits under subchapter I which are determined under section 814 or 815 (as determined by the Secretary of State) and are similar in amount to a pro rata share division under section 814 or 815 and the service of the member as a participant under this subchapter is not recognized in determining that pro rata share, then subsections (a) and (b) of this section shall not apply to such former spouse. Otherwise, subsections (a) and (b) of this section shall apply.

(e) If a participant dies after completing at least 18 months of service or a former participant dies entitled to a deferred annuity, but before becoming eligible to receive the annuity, and such participant or former participant has left with the Secretary of State a spousal agreement promising a share of a survivor annuity under subchapter IV, chapter 84, title 5, United States Code, to a former spouse, such survivor annuity shall be paid under the terms of this subchapter as if the survivor annuity had been ordered by a court.

Sec. 862.[145] **Spousal Agreements.**—A spousal agreement is any written agreement (properly authenticated as determined by the Secretary of State) between a participant or former participant and his or her spouse or former spouse on file with the Secretary of State. A spousal agreement shall be consistent with the terms of this Act and applicable regulations and, if executed at the time a participant or former participant is currently married, shall be approved by such current spouse. It may be used to fix the level of benefits payable under this subchapter to a spouse or former spouse.

CHAPTER 9—TRAVEL, LEAVE, AND OTHER BENEFITS

Sec. 901.[146] **Travel and Related Expenses.**—The Secretary may pay the travel and related expenses of members of the Service and their families, including costs or expenses incurred for—

(1) proceeding to and returning from assigned posts of duty;

(2) authorized or required home leave;

(3) family members to accompany, precede, or follow a member of the Service to a place of temporary duty;

(4) representational travel within the country to which the member of the Service is assigned or, when not more than one family member participates, outside such country;

(5) obtaining necessary medical care for an illness, injury, or medical condition while abroad in a locality where there is no suitable person or facility to provide such care (without regard to those laws and regulations limiting or restricting the furnishing or payment of transportation and traveling expenses), as well as expenses for—

(A) an attendant or attendants for a member of the Service or a family member who is too ill to travel unattended or for a family member who is too young to travel alone, and

(B) a family member incapable of caring for himself or herself if he or she remained at the post at which the member of the Service is serving;

(6) rest and recuperation travel of members of the Service who are United States citizens, and members of their families, while serving at locations abroad specifically designated by the Secretary for purposes of this paragraph, to—

(A) other locations abroad having different social, climatic, or other environmental conditions than those at the post at which the member of the Service is serving, or

(B) locations in the United States;

except that, unless the Secretary otherwise specifies in extraordinary circumstances, travel expenses under this paragraph shall be limited to the cost for a member of the Service, and for each member of the family of the member, of 1 round trip during any continuous 2-year tour unbroken by home leave and of 2 round trips during any continuous 3-year tour unbroken by home leave;

(7) removal of the family members of a member of the Service, and the furniture and household and personal effects (including automobiles) of the family, from a Foreign Service post where there is imminent danger because of the prevalence of disturbed conditions, and the return of such individuals, furniture, and effects to such post upon the cessation of such conditions, or to such other Foreign Service post as may in the meantime have become the post to which the member of the Service has been reassigned;

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[146] 22 U.S.C. 4081.

(8) trips by a member of the Service for purposes of family visitation in situations where the family of the member is prevented by official order from accompanying the member to, or has been ordered from, the assigned post of the member because of imminent danger due to the prevalence of disturbed conditions, except that—

(A) with respect to any such member whose family is located in the United States, the Secretary may pay the costs and expenses for not to exceed two round trips in a 12-month period; and

(B) with respect to any such member whose family is located abroad, the Secretary may pay such costs and expenses for trips in a 12-month period as do not exceed the cost of 2 round trips (at less than first class) to the District of Columbia;

(9) round-trip travel from a location abroad for purposes of family visitation in emergency situations involving personal hardship;

(10) preparing and transporting to the designated home in the United States or to a place not more distant, the remains of a member of the Service, or of a family member of a member of the Service, who dies abroad or while in travel status;

(11) transporting the furniture and household and personal effects of a member of the Service (and of his or her family) to successive posts of duty and, on separation of a member from the Service, to the place where the member will reside (or if the member has died, to the place where his or her family will reside);

(12) packing and unpacking, transporting to and from a place of storage, and storing the furniture and household and personal effects of a member of the Service (and of his or her family)—

(A) when the member is absent from his or her post of assignment under orders or is assigned to a Foreign Service post to which such furniture and household and personal effects cannot be taken or at which they cannot be used, or when it is in the public interest or more economical to authorize storage;

(B) in connection with an assignment of the member to a new post, except that costs and expenses may be paid under this subparagraph only for the period beginning on the date of departure from his or her last post or (in the case of a new member) on the date of departure from the place of residence of the member and ending on the earlier of the date which is 3 months after arrival of the member at the new post or the date on which the member establishes residence quarters; and

(C) in connection with separation of the member from the Service, except that costs or expenses may not be paid under this subparagraph for storing furniture and household and personal effects for more than 3 months;

(13) transporting, for or on behalf of a member of the Service, a privately owned motor vehicle in any case in which the

Secretary determines that water, rail, or air transportation of the motor vehicle is necessary or expedient for all or any part of the distance between points of origin and destination, but transportation may be provided under this paragraph for only one motor vehicle of a member during any 48-month period while the member is continuously serving abroad, except that another motor vehicle may be so transported as a replacement for such motor vehicle if such replacement—

(A) is determined, in advance, by the Secretary to be necessary for reasons beyond the control of the members and in the interest of the Government, or

(B) is incident to a reassignment when the cost of transporting the replacement motor vehicle does not exceed the cost of transporting the motor vehicle that is replaced;

(14) the travel and relocation of members of the Service, and members of their families, assigned to or within the United States (or any territory or possession of the United States or the Commonwealth of Puerto Rico), including assignments under subchapter VI of chapter 33 of title 5, United States Code (notwithstanding section 3375(a) of such title, if an agreement similar to that required by section 3375(b) of such title is executed by the member of the Service); and

(15) 1 round-trip per year for each child below age 21 of a member of the Service assigned abroad—

(A) to visit the member abroad if the child does not regularly reside with the member and the member is not receiving an education allowance or educational travel allowance for the child under section 5924(4) of title 5, United States Code; or

(B) to visit the other parent of the child if the other parent resides in a country other than the country to which the member is assigned and the child regularly resides with the member and does not regularly attend school in the country in which the other parent resides,

except that a payment under this paragraph may not exceed the cost of round-trip travel between the post to which the member is assigned and the port of entry in the contiguous 48 States which is nearest to that post.

Sec. 902.[147] **Loan of Household Effects.**—The Secretary may, as a means of eliminating transportation costs, provide members of the Service with basic household furnishing and equipment for use on a loan basis in personally owned or leased residences.

Sec. 903.[148] **Required Leave in the United States.**—(a) The Secretary may order a member of the Service who is a citizen of the United States to take a leave of absence under section 6305 of title 5, United States Code (without regard to the introductory clause of subsection (a) of that section), upon completion by that member of 18 months of continuous service abroad. The Secretary shall order on such a leave of absence a member of the Service who is a citizen of the United States as soon as possible after completion by that member of 3 years of continuous service abroad.

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[147] 22 U.S.C. 4082.

[148] 22 U.S.C. 4083.

(b) Leave ordered under this section may be taken in the United States, its territories and possessions, or the Commonwealth of Puerto Rico.

(c) While on a leave of absence ordered under this section, the services of any member of the Service shall be available for such work or duties in the Department or elsewhere as the Secretary may prescribe, but the time of such work or duties shall not be counted as leave.

Sec. 904.[149] **Health Care.**—(a) The Secretary of State shall establish a health care program to promote and maintain the physical and mental health of members of the Service, and (when incident to service abroad) other designated eligible Government employees, and members of the families of such members and employees.

(b) Any such health care program may include (1) medical examinations for applicants for employment, (2) medical examinations and inoculations or vaccinations, and other preventive and remedial care and services as necessary, for members of the Service and employees of the Department who are citizens of the United States and for members of their families, and (3) examinations necessary in order to establish disability or incapacity of participants in the Foreign Service Retirement and Disability System or to provide survivor benefits under chapter 8.

(c) The Secretary of State may establish health care facilities and provide for the services of physicians, nurses, or other health care personnel at Foreign Service posts abroad at which, in the opinion of the Secretary of State, a sufficient number of Government employees are assigned to warrant such facilities or services.

(d) If an individual eligible for health care under this section incurs an illness, injury, or medical condition which requires treatment while assigned to a post abroad located overseas pursuant to Government authorization, the Secretary may pay the cost of such treatment.

(e) Health care may be provided under this section to a member of the Service or other designated eligible Government employee after the separation of such member or employee from Government service. Health care may be provided under this section to a member of the family of a member of the Service or of a designated eligible Government employee after the separation from Government service or the death of such member of the Service or employee or after dissolution of the marriage.

(f) The Secretary of State shall review on a continuing basis the health care program provided for in this section. Whenever the Secretary of State determines that all or any part of such program can be provided for as well and as cheaply in other ways, the Secretary may, for such individuals, locations, and conditions as the Secretary of State deems appropriate, contract for health care pursuant to such arrangements as the Secretary deems appropriate.

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[149] 22 U.S.C. 4084. Sec. 122 of Public Law 99–93 (99 Stat. 405) amended subsection (a), by striking out "may" and inserting in lieu thereof "shall"; and subsection (b), by inserting ", and other preventive and remedial care and services as necessary," after "inoculations or vaccinations"; and by amending subsection (d) which previously read as follows:

"(d) If an individual eligible for health care under this section incurs an illness, injury, or medical condition while abroad which requires hospitalization or similar treatment, the Secretary may pay all or part of the cost of such treatment. Limitations on such payments established by regulation may be waived whenever the Secretary determines that the illness, injury, or medical condition clearly was caused or materially aggravated by the fact that the individual concerned is or has been located abroad."

Sec. 905.[150] **Representation Expenses.**—Notwithstanding section 5536 of title 5, United States Code, the Secretary may provide for official receptions and may pay entertainment and representational expenses (including expenses of family members) to enable the Department and the Service to provide for the proper representation of the United States and its interests. In carrying out this section, the Secretary shall, to the maximum extent practicable, provide for the use of United States products, including American wine.

Sec. 906.[151] **Entitlement To Vote in a State in a Federal Election.**—(a) Except as provided in subsection (b) and in such manner as shall be otherwise authorized by a State or other jurisdiction within the territory of the United States, a member of the Service residing outside the United States shall, in addition to any entitlement to vote in a State in a Federal election under section 3 of the Overseas Citizens Voting Rights Act (42 U.S.C. 1973dd-1), be entitled to vote in a Federal election in the State in which such member was last domiciled immediately before entering the Service if such member—

(1) makes an election of that State;

(2) notifies that State of such election and notifies any other States in which he or she is entitled to vote of such election; and

(3) otherwise meets the requirements of such Act.

(b) The provisions of subsection (a) shall apply only to an individual who becomes a member of the Service on or after the date of enactment of this section and shall not apply to an individual who registers to vote in a State in which he is entitled to vote under section 3 of Overseas Citizens Voting Rights Act.

CHAPTER 10—LABOR-MANAGEMENT RELATIONS

Sec. 1001.[152] **Labor-Management Policy.**—The Congress finds that—

(1) experience in both private and public employment indicates that the statutory protection of the right of workers to organize, bargain collectively, and participate through labor organizations of their own choosing in decisions which affect them—

(A) safeguards the public interest,

(B) contributes to the effective conduct of public business, and

(C) facilitates and encourages the amicable settlement of disputes between workers and their employers involving conditions of employment;

(2) the public interest demands the highest standards of performance by members of the Service and the continuous development and implementation of modern and progressive work

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[150] 22 U.S.C. 4085.

[151] 22 U.S.C. 4086. Sec. 129(a) of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98-164, 97 Stat. 1027) added sec. 906.

[152] 22 U.S.C. 4101.

practices to facilitate improved performance and efficiency; and

(3) the unique conditions of Foreign Service employment require a distinct framework for the development and implementation of modern, constructive, and cooperative relationships between management officials and organizations representing members of the Service.

Therefore, labor organizations and collective bargaining in the Service are in the public interest and are consistent with the requirement of an effective and efficient Government. The provisions of this chapter should be interpreted in a manner consistent with the requirement of an effective and efficient Government.

Sec. 1002.[153] **Definitions.**—As used in this chapter, the term—

(1) "Authority" means the Federal Labor Relations Authority, described in section 7104(a) of title 5, United States Code;

(2) "Board" means the Foreign Service Labor Relations Board, established by section 1006(a);

(3) "collective bargaining" means the performance of the mutual obligation of the management representative of the Department and of the exclusive representative of employees to meet at reasonable times and to consult and bargain in a good-faith effort to reach agreement with respect to the conditions of employment affecting employees, and to execute, if requested by either party, a written document incorporating any collective bargaining agreement reached, but this obligation does not compel either party to agree to a proposal or to make a concession;

(4) "collective bargaining agreement" means an agreement entered into as a result of collective bargaining under the provisions of this chapter;

(5) "conditions of employment" means personnel policies, practices, and matters, whether established by regulation or otherwise, affecting working conditions, but does not include policies, practices, and matters—

(A) relating to political activities prohibited abroad or prohibited under subchapter III of chapter 73 of title 5, United States Code;

(B) relating to the designation or classification of any position under section 501;

(C) to the extent such matters are specifically provided for by Federal statute; or

(D) relating to Government-wide or multiagency responsibility of the Secretary affecting the rights, benefits, or obligations of individuals employed in agencies other than those which are authorized to utilize the Foreign Service personnel system;

(6) "confidential employee" means an employee who acts in a confidential capacity with respect to an individual who formulates or effectuates management policies in the field of labor-management relations;

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[153] 22 U.S.C. 4102.

(7) "dues" means dues, fees, and assessments;

(8) "employee" means—

(A) a member of the Service who is a citizen of the United States, wherever serving, other than a management official, a confidential employee, a consular agent, or any individual who participates in a strike in violation of section 7311 of title 5, United States Code; or

(B) a former member of the Service as described in subparagraph (A) whose employment has ceased because of an unfair labor practice under section 1015 and who has not obtained any other regular and substantially equivalent employment, as determined under regulations prescribed by the Board;

(9) "exclusive representative" means any labor organization which is certified as the exclusive representative of employees under section 1011;

(10) "General Counsel" means the General Counsel of the Authority;

(11) "labor organization" means an organization composed in whole or in part of employees, in which employees participate and pay dues, and which has as a purpose dealing with the Department concerning grievances (as defined in section 1101) and conditions of employment, but does not include—

(A) an organization which, by its constitution, bylaws, tacit agreement among its members, or otherwise, denies membership because of race, color, creed, national origin, sex, age, preferential or nonpreferential civil service status, political affiliation, marital status, or handicapping condition;

(B) an organization which advocates the overthrow of the constitutional form of government of the United States;

(C) an organization sponsored by the Department; or

(D) an organization which participates in the conduct of a strike against the Government or any agency thereof or imposes a duty or obligation to conduct, assist, or participate in such a strike;

(12) "management official" means an individual who—

(A) is a chief of mission or principal officer;

(B) is serving in a position to which appointed by the President, by and with the advice and consent of the Senate, or by the President alone;

(C) occupies a position which in the sole judgment of the Secretary is of comparable importance to the offices mentioned in subparagraph (A) or (B);

(D) is serving as a deputy to any individual described by subparagraph (A), (B), or (C);

(E) is assigned to carry out functions of the Inspector General of the Department of State and the Foreign Service under section 209; or

(F) is engaged in the administration of this chapter or in the formulation of the personnel policies and programs of the Department;

(13) "Panel" means the Foreign Service Impasse Disputes Panel, established by section 1010(a); and

(14) "person" means an individual, a labor organization, or an agency to which this chapter applies.

Sec. 1003.[154] **Application.**—(a) This chapter applies only with respect to the Department of State, the International Communication Agency, the United States International Development Cooperation Agency, the Department of Agriculture, and the Department of Commerce.

(b) The President may by Executive order exclude any subdivision of the Department from coverage under this chapter if the President determines that—

(1) the subdivision has as a primary function intelligence, counterintelligence, investigative, or national security work, and

(2) the provisions of this chapter cannot be applied to that subdivision in a manner consistent with national security requirements and considerations.

(c) The President may by Executive order suspend any provision of this chapter with respect to any post, bureau, office, or activity of the Department, if the President determines in writing that the suspension is necessary in the interest of national security because of an emergency.

Sec. 1004.[155] **Employee Rights.**—(a) Every employee has the right to form, join, or assist any labor organization, or to refrain from any such activity, freely and without fear of penalty or reprisal. Each employee shall be protected in the exercise of such right.

(b) Except as otherwise provided under this chapter, such right includes the right—

(1) to act for a labor organization in the capacity of a representative and, in that capacity, to present the views of the labor organization to the Secretary and other officials of the Government, including the Congress, or other appropriate authorities; and

(2) to engage in collective bargaining with respect to conditions of employment through representatives chosen by employees under this chapter.

Sec. 1005.[156] **Management Rights.**—(a) Subject to subsection (b), nothing in this chapter shall affect the authority of any management official of the Department, in accordance with applicable law—

(1) to determine the mission, budget, organization, and internal security practices of the Department, and the number of individuals in the Service or in the Department;

(2) to hire, assign, direct, lay off, and retain individuals in the Service or in the Department, to suspend, remove, or take other disciplinary action against such individuals, and to determine the number of members of the Service to be promoted and to remove the name of or delay the promotion of any

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[154] 22 U.S.C. 4103.

[155] 22 U.S.C. 4104.

[156] 22 U.S.C. 4105.

member in accordance with regulations prescribed under section 605(b);

(3) to assign work, to make determinations with respect to contracting out, and to determine the personnel by which the operations of the Department shall be conducted;

(4) to fill positions from any appropriate source;

(5) to determine the need for uniform personnel policies and procedures between or among the agencies to which this chapter applies; and

(6) to take whatever actions may be necessary to carry out the mission of the Department during emergencies.

(b) Nothing in this section shall preclude the Department and the exclusive representative from negotiating—

(1) at the election of the Department, on the numbers, types, and classes of employees or positions assigned to any organizational subdivision, work project, or tour of duty, or on the technology, methods, and means of performing work;

(2) procedures which management officials of the Department will observe in exercising any function under this section; or

(3) appropriate arrangements for employees adversely affected by the exercise of any function under this section by such management officials.

Sec. 1006.[157] **Foreign Service Labor Relations Board.**—(a) There is established within the Federal Labor Relations Authority the Foreign Service Labor Relations Board. The Board shall be composed of 3 members, 1 of whom shall be the Chairman of the Authority, who shall be the Chairperson of the Board. The remaining 2 members shall be appointed by the Chairperson of the Board from nominees approved in writing by the agencies to which this chapter applies, and the exclusive representative (if any) of employees in each such agency. In the event of inability to obtain agreement on a nominee, the Chairperson shall appoint the remaining 2 members from among individuals the Chairperson considers knowledgeable in labor-management relations and the conduct of foreign affairs.

(b) The Chairperson shall serve on the Board while serving as Chairman of the Authority. Of the 2 original members of the Board other than the Chairperson, one shall be appointed for a 2-year term and one shall be appointed for a 3-year term. Thereafter, each member of the Board other than the Chairperson shall be appointed for a term of 3 years, except that an individual appointed to fill a vacancy occurring before the end of a term shall be appointed for the unexpired term of the member replaced. The Chairperson may at any time designate an alternate Chairperson from among the members of the Authority.

(c) A vacancy on the Board shall not impair the right of the remaining members to exercise the full powers of the Board.

(d) The members of the Board, other than the Chairperson, may not hold another office or position in the Government except as authorized by law, and shall receive compensation at the daily equivalent of the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day they are performing their duties (including traveltime).

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[157] 22 U.S.C. 4106.

(e) The Chairperson may remove any other Board member, upon written notice, for corruption, neglect of duty, malfeasance, or demonstrated incapacity to perform his or her functions, established at a hearing, except where the right to a hearing is waived in writing.

Sec. 1007.[158] **Functions of the Board.**—(a) The Board shall—

(1) supervise or conduct elections and determine whether a labor organization has been selected as the exclusive representative by a majority of employees who cast valid ballots and otherwise administer the provisions of this chapter relating to the according of exclusive recognition to a labor organization;

(2) resolve complaints of alleged unfair labor practices;

(3) resolve issues relating to the obligation to bargain in good faith;

(4) resolve disputes concerning the effect, the interpretation, or a claim of breach of a collective bargaining agreement, in accordance with section 1014; and

(5) take any action considered necessary to administer effectively the provisions of this chapter.

(b) Decisions of the Board under this chapter shall be consistent with decisions rendered by the Authority under chapter 71 of title 5, United States Code, other than in cases in which the Board finds that special circumstances require otherwise. Decisions of the Board under this chapter shall not be construed as precedent by the Authority, or any court or other authority, for any decision under chapter 71 of title 5, United States Code.

(c) In order to carry out its functions under this chapter—

(1) the Board shall by regulation adopt procedures to apply in the administration of this chapter; and

(2) the Board may—

(A) adopt other regulations concerning its functions under this chapter;

(B) conduct appropriate inquiries wherever persons subject to this chapter are located;

(C) hold hearings;

(D) administer oaths, take the testimony or deposition of any individual under oath, and issue subpenas;

(E) require the Department or a labor organization to cease and desist from violations of this chapter and require it to take any remedial action the Board considers appropriate to carry out this chapter; and

(F) consistent with the provisions of this chapter, exercise the functions the Authority has under chapter 71 of title 5, United States Code, to the same extent and in the same manner as is the case with respect to persons subject to chapter 71 of such title.

Sec. 1008.[159] **Functions of the General Counsel.**—The General Counsel may—

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[158] 22 U.S.C. 4107.

[159] 22 U.S.C. 4108.

(1) investigate alleged unfair labor practices under this chapter,

(2) file and prosecute complaints under this chapter, and

(3) exercise such other powers of the Board as the Board may prescribe.

Sec. 1009.[160] **Judicial Review and Enforcement.**—(a) Except as provided in section 1014(d), any person aggrieved by a final order of the Board may, during the 60-day period beginning on the date on which the order was issued, institute an action for judicial review of such order in the United States Court of Appeals for the District of Columbia.

(b) The Board may petition the United States Court of Appeals for the District of Columbia for the enforcement of any order of the Board under this chapter and for any appropriate temporary relief or restraining order.

(c) Subsection (c) of section 7123 of title 5, United States Code, shall apply to judicial review and enforcement of actions by the Board in the same manner that it applies to judicial review and enforcement of actions of the Authority under chapter 71 of title 5, United States Code.

(d) The Board may, upon issuance of a complaint as provided in section 1016 charging that any person has engaged in or is engaging in an unfair labor practice, petition the United States District Court for the District of Columbia, for appropriate temporary relief (including a restraining order). Upon the filing of the petition, the court shall cause notice thereof to be served upon the person, and thereupon shall have jurisdiction to grant any temporary relief (including a temporary restraining order) it considers just and proper. A court shall not grant any temporary relief under this section if it would interfere with the ability of the Department to carry out its essential functions or if the Board fails to establish probable cause that an unfair labor practice is being committed.

Sec. 1010.[161] **Foreign Service Impasse Disputes Panel.**—(a) There is established within the Federal Labor Relations Authority the Foreign Service Impasse Disputes Panel, which shall assist in resolving negotiating impasses arising in the course of collective bargaining under this chapter. The Chairperson shall select the Panel from among individuals the Chairperson considers knowledgeable in labor-management relations or the conduct of foreign affairs. The Panel shall be composed of 5 members, as follows:

(1) 2 members of the Service (other than a management official, a confidential employee or a labor organization official);

(2) one individual employed by the Department of Labor;

(3) one member of the Federal Service Impasses Panel; and

(4) one public member who does not hold any other office or position in the Government.

The Chairperson of the Board shall set the terms of office for Panel members and determine who shall chair the Panel.

(b) Panel members referred to in subsection (a) (3) and (4) shall receive compensation for each day they are performing their duties (including traveltime) at the daily equivalent of the maximum rate payable for grade GS–18 of the General Schedule under section 5332 of title 5, United States Code, except that the member who is also a member of the Federal Service Impasses Panel shall not be entitled to pay under this subsection for any day for which he or she receives pay under section 7119(b)(4) of title 5, United States Code. Members of the Panel shall be entitled to travel expenses as provided under section 5703 of title 5, United States Code.

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[160] 22 U.S.C. 4109.

[161] 22 U.S.C. 4110.

(c)(1) The Panel or its designee shall promptly investigate any impasse presented to it by a party. The Panel shall consider the impasse and shall either—

(A) recommend to the parties to the negotiation procedures for the resolution of the impasse; or

(B) assist the parties in resolving the impasse through whatever methods and procedures, including factfinding and recommendations, it may consider appropriate to accomplish the purpose of this section.

(2) If the parties do not arrive at a settlement after assistance by the Panel under paragraph (1), the Panel may—

(A) hold hearings;

(B) administer oaths, take the testimony or deposition of any individual under oath, and issue subpenas as provided in section 7132 of title 5, United States Code; and

(C) take whatever action is necessary and not inconsistent with this chapter to resolve the impasse.

(3) Notice of any final action of the Panel under this section shall be promptly served upon the parties, and the action shall be binding on such parties during the term of the collective bargaining agreement unless the parties agree otherwise.

Sec. 1011.[162] **Exclusive Recognition.**—(a) The Department shall accord exclusive recognition to a labor organization if the organization has been selected as the representative, in a secret ballot election, by a majority of the employees in a unit who cast valid ballots in the election.

(b) If a petition is filed with the Board—

(1) by any person alleging—

(A) in the case of a unit for which there is no exclusive representative, that 30 percent of the employees in the unit wish to be represented for the purpose of collective bargaining by an exclusive representative, or

(B) in the case of a unit for which there is an exclusive representative, that 30 percent of the employees in the unit alleged that the exclusive representative is no longer the representative of the majority of the employees in the unit; or

(2) by any person seeking clarification of, or an amendment to, a certification then in effect or a matter relating to representation;

the Board shall investigate the petition, and if it has reasonable cause to believe that a question of representation exists, it shall provide an opportunity for a hearing (for which a transcript shall be kept) after reasonable notice. If the Board finds on the record of the hearing that a question of representation exists, the Board shall supervise or conduct an election on the question by secret ballot and shall certify the results thereof. An election under this subsection shall not be conducted in any unit within which a valid election under this subsection has been held during the preceding 12 calendar months or with respect to which a labor organization has been certified as the exclusive representative during the preceding 24 calendar months.

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[162] 22 U.S.C. 4111.

(c) A labor organization which—

(1) has been designated by at least 10 percent of the employees in the unit; or

(2) is the exclusive representative of the employees involved;

may intervene with respect to a petition filed pursuant to subsection (b) and shall be placed on the ballot of any election under subsection (b) with respect to the petition.

(d)(1) The Board shall determine who is eligible to vote in any election under this section and shall establish regulations governing any such election, which shall include regulations allowing employees eligible to vote the opportunity to choose—

(A) from labor organizations on the ballot, that labor organization which the employees wish to have represent them; or

(B) not to be represented by a labor organization.

(2) In any election in which more than two choices are on the ballot, the regulations of the Board shall provide for preferential voting. If no choice receives a majority of first preferences, the Board shall distribute to the two choices having the most first preferences the preferences as between those two of the other valid ballots cast. The choice receiving a majority of preferences shall be declared the winner. A labor organization which is declared the winner of the election shall be certified by the Board as the exclusive representative.

(e) A labor organization seeking exclusive recognition shall submit to the Board and to the Department a roster of its officers and representatives, a copy of its constitution and bylaws, and a statement of its objectives.

(f) Exclusive recognition shall not be accorded to a labor organization—

(1) if the Board determines that the labor organization is subject to corrupt influences or influence opposed to democratic principles; or

(2) in the case of a petition filed under subsection (b)(1)(A), if there is not credible evidence that at least 30 percent of the employees wish to be represented for the purpose of collective bargaining by the labor organization seeking exclusive recognition.

(g) Nothing in this section shall be construed to prohibit the waiving of hearings by stipulation for the purpose of a consent election in conformity with regulations and rules or decisions of the Board.

Sec. 1012.[163] **Employees Represented.**—The employees of the Department shall constitute a single and separate worldwide bargaining unit, from which there shall be excluded—

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[163] 22 U.S.C. 4112.

(1) employees engaged in personnel work in other than a purely clerical capacity; and

(2) employees engaged in criminal or national security investigations or who audit the work of individuals to insure that their functions are discharged honestly and with integrity.

Sec. 1013.[164] **Representation Rights and Duties.**—(a) A labor organization which has been accorded exclusive recognition is the exclusive representative of, and is entitled to act for, and negotiate collective bargaining agreements covering, all employees in the unit described in section 1012. An exclusive representative is responsible for representing the interests of all employees in that unit without discrimination and without regard to labor organization membership.

(b)(1) An exclusive representative shall be given the opportunity to be represented at—

(A) any formal discussion between one or more representatives of the Department and one or more employees in the unit (or their representatives), concerning any grievance (as defined in section 1101) or any personnel policy or practice or other general condition of employment; and

(B) any examination of an employee by a Department representative in connection with an investigation if—

(i) the employee reasonably believes that the examination may result in disciplinary action against the employee, and

(ii) the employee requests such representation.

(2) The Department shall annually inform employees of their rights under paragraph (1)(B).

(c) The Department and the exclusive representative, through appropriate representatives, shall meet and negotiate in good faith for the purposes of arriving at a collective bargaining agreement. In addition, the Department and the exclusive representative may determine appropriate techniques, consistent with the provisions of section 1010, to assist in any negotiation.

(d) The rights of an exclusive representative under this section shall not preclude an employee from—

(1) being represented by an attorney or other representative of the employee's own choosing, other than the exclusive representative, in any grievance proceeding under chapter 11; or

(2) exercising grievance or appeal rights established by law, rule, or regulation.

(e) The duty of the Department and the exclusive representative to negotiate in good faith shall include the obligation—

(1) to approach the negotiations with a sincere resolve to reach a collective bargaining agreement;

(2) to be represented at the negotiations by duly authorized representatives prepared to discuss and negotiate on any condition of employment;

(3) to meet at reasonable times and convenient places as frequently as may be necessary and to avoid unnecessary delays;

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[164] 22 U.S.C. 4113.

(4) for the Department to furnish to the exclusive representative, or its authorized representative, upon request and to the extent not prohibited by law, data—

(A) which is normally maintained by the Department in the regular course of business;

(B) which is reasonably available and necessary for full and proper discussion, understanding, and negotiation of subjects within the scope of collective bargaining; and

(C) which does not constitute guidance, advice, counsel, or training provided for management officials or confidential employees, relating to collective bargaining;

(5) to negotiate jointly with respect to conditions of employment applicable to employees in more than one of the agencies authorized to utilize the Foreign Service personnel system, as determined by the heads of such agencies; and

(6) if agreement is reached, to execute, upon the request of any party to the negotiation, a written document embodying the agreed terms, and to take the steps necessary to implement the agreement.

(f)(1) An agreement between the Department and the exclusive representative shall be subject to approval by the Secretary.

(2) The Secretary shall approve the agreement within 30 days after the date of the agreement unless the Secretary finds in writing that the agreement is contrary to applicable law, rule, or regulation.

(3) Unless the Secretary disapproves the agreement by making a finding under paragraph (2), the agreement shall take effect after 30 days from its execution and shall be binding on the Department and the exclusive representative subject to all applicable laws, orders, and regulations.

(g) The Department shall consult with the exclusive representative with respect to Government-wide or multiagency matters affecting the rights, benefits, or obligations of individuals employed in agencies not authorized to utilize the Foreign Service personnel system. The exclusive representative shall be informed of any change proposed by the Department with respect to such matters, and shall be permitted reasonable time to present its views and recommendations regarding such change. The Department shall consider the views and recommendations of the exclusive representative before taking final action on any such change, and shall provide the exclusive representative a written statement of the reasons for taking the final action.

Sec. 1014.[165] **Resolution of Implementation Disputes**.—Any dispute between the Department and the exclusive representative concerning the effect, interpretation, or a claim of breach of a collective bargaining agreement shall be resolved through procedures negotiated by the Department and the exclusive representative. Any procedures negotiated under this section shall—

(1) be fair and simple,

(2) provide for expeditious processing, and

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[165] 22 U.S.C. 4114.

(3) include provision for appeal to the Foreign Service Grievance Board by either party of any dispute not satisfactorily settled.

(b) Either party to an appeal under subsection (a)(3) may file with the Board an exception to the action of the Foreign Service Grievance Board in resolving the implementation dispute. If, upon review, the Board finds that the action is deficient—

(1) because it is contrary to any law, rule, or regulation; or

(2) on other grounds similar to those applied by Federal courts in private sector labor-management relations;

the Board may take such action and make such recommendations concerning the Foreign Service Grievance Board action as it considers necessary, consistent with applicable laws, rules, and regulations.

(c) If no exception to a Foreign Service Grievance Board action is filed under subsection (b) within 30 days after such action is communicated to the parties, such action shall become final and binding and shall be implemented by the parties.

(d) Resolutions of disputes under this section shall not be subject to judicial review.

Sec. 1015.[166] **Unfair Labor Practices.**—(a) It shall be an unfair labor practice for the Department—

(1) to interfere with, restrain, or coerce any employee in the exercise by the employee of any right under this chapter;

(2) to encourage or discourage membership in any labor organization by discrimination in connection with hiring, tenure, promotion, or other conditions of employment;

(3) to sponsor, control, or otherwise assist any labor organization, other than to furnish upon request customary and routine services and facilities on an impartial basis to labor organizations having equivalent status;

(4) to discipline or otherwise discriminate against an employee because the employee has filed a complaint or petition, or has given any information, affidavit, or testimony under this chapter;

(5) to refuse to consult or negotiate in good faith with a labor organization, as required under this chapter;

(6) to fail or refuse to cooperate in impasse procedures and impasse decisions, as required under this chapter;

(7) to enforce any rule or regulation (other than a rule or regulation implementing section 2302 of title 5, United States Code) which is in conflict with an applicable collective bargaining agreement if the agreement was in effect before the date the rule or regulation was prescribed; or

(8) to fail or refuse otherwise to comply with any provision of this chapter.

(b) It shall be an unfair labor practice for a labor organization—

(1) to interfere with, restrain, or coerce any employee in the exercise by the employee of any right under this chapter;

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[166] 22 U.S.C. 4115.

(2) to cause or attempt to cause the Department to discriminate against any employee in the exercise by the employee of any right under this chapter;

(3) to coerce, discipline, fine, or attempt to coerce a member of the labor organization as punishment or reprisal, or for the purpose of hindering or impeding the member's work performance or productivity as an employee or the discharge of the member's functions as an employee;

(4) to discriminate against an employee with regard to the terms and conditions of membership in the labor organization on the basis of race, color, creed, national origin, sex, age, preferential or nonpreferential civil service status, political affiliation, marital status, or handicapping condition;

(5) to refuse to consult or negotiate in good faith with the Department, as required under this chapter;

(6) to fail or refuse to cooperate in impasse procedures and impasse decisions, as required under this chapter;

(7)(A) to call, or participate in, a strike, work stoppage, or slowdown, or to picket the Department in a labor-management dispute (except that any such picketing in the United States which does not interfere with the Department's operations shall not be an unfair labor practice); or

(B) to condone any unfair labor practice described in subparagraph (A) by failing to take action to prevent or stop such activity;

(8) to deny membership to any employee in the unit represented by the labor organization except—

(A) for failure to tender dues uniformly required as a condition of acquiring and retaining membership, or

(B) in the exercise of disciplinary procedures consistent with the organization's constitution or bylaws and this chapter; or

(9) to fail or refuse otherwise to comply with any provision of this chapter.

(c) The expression of any personal view, argument, or opinion, or the making of any statement, which—

(1) publicizes the fact of a representational election and encourages employees to exercise their right to vote in such an election;

(2) corrects the record with respect to any false or misleading statement made by any person; or

(3) informs employees of the Government's policy relating to labor-management relations and representation,

if the expression contains no threat of reprisal or force or promise of benefit and was not made under coercive conditions shall not—

(A) constitute an unfair labor practice under this chapter, or

(B) constitute grounds for the setting aside of any election conducted under this chapter.

(d) Issues which can properly be raised under an appeals procedure may not be raised as unfair labor practices prohibited under this section. Except for matters wherein, under section 1109(b), an employee has an option of using the grievance procedure under chapter 11 or an appeals procedure, issues which can be raised under section 1014 or chapter 11 may, in the discretion of the aggrieved party, be raised either under section or chapter or else raised as an unfair labor practice under this section, but may not be raised both under this section and under section 1014 or chapter 11.

Sec. 1016.[167] **Prevention of Unfair Labor Practices.**—(a) If the Department or labor organization is charged by any person with having engaged in or engaging in an unfair labor practice, the General Counsel shall investigate the charge and may issue and cause to be served upon the Department or labor organization a complaint. In any case in which the General Counsel does not issue a complaint because the charge fails to state an unfair labor practice, the General Counsel shall provide the person making the charge a written statement of the reasons for not issuing a complaint.

(b) Any complaint under subsection (a) shall contain a notice—

(1) of the charge;

(2) that a hearing will be held before the Board (or any member thereof or before an individual employed by the Board and designated for such purpose); and

(3) of the time and place fixed for the hearing.

(c) The labor organization or Department involved shall have the right to file an answer to the original and any amended complaint and to appear in person or otherwise and give testimony at the time and place fixed in the complaint for the hearing.

(d)(1) Except as provided in paragraph (2), no complaint shall be issued based on any alleged unfair labor practice which occurred more than 6 months before the filing of the charge with the Board.

(2) If the General Counsel determines that the person filing any charge was prevented from filing the charge during the 6-month period referred to in paragraph (1) by reason of—

(A) any failure of the Department or labor organization against which the charge is made to perform a duty owed to the person, or

(B) any concealment which prevented discovery of the alleged unfair labor practice during the 6-month period,

the General Counsel may issue a complaint based on the charge if the charge was filed during the 6-month period beginning on the day of the discovery by the person of the alleged unfair labor practice.

(e) The General Counsel may prescribe regulations providing for informal methods by which the alleged unfair labor practice may be resolved prior to the issuance of a complaint.

(f) The Board (or any member thereof or any individual employed by the Board and designated for such purpose) shall conduct a hearing on the complaint not earlier than 5 days after the date on which the complaint is served. In the discretion of the individual or individuals conducting the hearing, any person involved may be allowed to intervene in the hearing and to present testimony. Any such hearing shall, to the extent practicable, be conducted in accordance with the provisions of subchapter II of chapter 5 of title 5, United States Code, except that the parties shall not be bound by rules of evidence, whether statutory, common law, or adopted by a court. A transcript shall be kept of the hearing. After such a hearing the Board, in its discretion, may upon notice receive further evidence or hear argument.

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[167] 22 U.S.C. 4116.

(g) If the Board (or any member thereof or any individual employed by the Board and designated for such purpose) determines after any hearing on a complaint under subsection (f) that the preponderance of the evidence received demonstrates that the Department or labor organization named in the complaint has engaged in or is engaged in an unfair labor practice, then the individual or individuals conducting the hearing shall state in writing their findings of fact and shall issue and cause to be served on the Department or labor organization an order—

(1) to cease and desist from any such unfair labor practice in which the Department or labor organization is engaged;

(2) requiring the parties to renegotiate a collective bargaining agreement in accordance with the order of the Board and requiring that the agreement, as amended, be given retroactive effect;

(3) requiring reinstatement of an employee with backpay in accordance with section 5596 of title 5, United States Code; or

(4) including any combination of the actions described in paragraphs (1) through (3) or such other action as will carry out the purpose of this chapter.

If any such order requires reinstatement of an employee with backpay, backpay may be required of the Department (as provided in section 5596 of title 5, United States Code) or of the labor organization, as the case may be, which is found to have engaged in the unfair labor practice involved.

(h) If the individual or individuals conducting the hearing determine that the preponderance of the evidence received fails to demonstrate that the Department or labor organization named in the complaint has engaged in or is engaged in an unfair labor practice, the individual or individuals shall state in writing their findings of fact and shall issue an order dismissing the complaint.

Sec. 1017.[168] **Standards of Conduct for Labor Organizations.**—(a) The Department shall accord recognition only to a labor organization that is free from corrupt influences and influences opposed to basic democratic principles. Except as provided in subsection (b), an organization is not required to prove that it is free from such influences if it is subject to a governing requirement adopted by the organization or by a national or international labor organization or federation of labor organizations with which it is affiliated, or in which it participates, containing explicit and detailed provisions to which it subscribes calling for—

(1) the maintenance of democratic procedures and practices, including—

(A) provisions for periodic elections to be conducted subject to recognized safeguards, and

(B) provisions defining and securing the right of individual members to participate in the affairs of the organization, to receive fair and equal treatment under the governing rules of the organization, and to receive fair process in disciplinary proceedings;

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[168] 22 U.S.C. 4117.

(2) the exclusion from office in the organization of persons affiliated with Communist or other totalitarian movements and persons identified with corrupt influences;

(3) the prohibition of business or financial interests on the part of organization officers and agents which conflict with their duty to the organization and its members; and

(4) the maintenance of fiscal integrity in the conduct of the affairs of the organization, including provisions for accounting and financial controls and regular financial reports or summaries to be made available to members.

(b) A labor organization may be required to furnish evidence of its freedom from corrupt influences opposed to basic democratic principles if there is reasonable cause to believe that—

(1) the organization has been suspended or expelled from, or is subject to other sanction by, a parent labor organization, or federation of organizations with which it has been affiliated, because it has demonstrated an unwillingness or inability to comply with governing requirements comparable in purpose to those required by subsection (a); or

(2) the organization is in fact subject to influences that would preclude recognition under this chapter.

(c) A labor organization which has or seeks recognition as a representative of employees under this chapter shall file financial and other reports with the Assistant Secretary of Labor for Labor Management Relations, provide for bonding of officials and others employed by the organization, and comply with trusteeship and election standards.

(d) The Assistant Secretary of Labor shall prescribe such regulations as are necessary to carry out this section. Such regulations shall conform generally to the principles applied to labor organizations in the private sector. Complaints of violations of this section shall be filed with the Assistant Secretary. In any matter arising under this section, the Assistant Secretary may require a labor organization to cease and desist from violations of this section and require it to take such actions as the Assistant Secretary considers appropriate to carry out the policies of this section.

(e) This chapter does not authorize participation in the management of a labor organization or acting as a representative of a labor organization by a management official, a confidential employee, or any other employee if the participation or activity would result in a conflict or apparent conflict of interest or would otherwise be incompatible with law or with the official functions of such management official or such employee.

(f) If the Board finds that any labor organization has willfully and intentionally violated section 1015(b)(7) by omission or commission with regard to any strike, work stoppage, slowdown, the Board shall—

(1) revoke the exclusive recognition status of the labor organization, which shall then immediately cease to be legally entitled and obligated to represent employees in the unit; or

(2) take any other appropriate disciplinary action.

Sec. 1018.[169] **Administrative Provisions.**—(a) If the Department has received from any individual a written assignment which authorizes the Department to deduct from the salary of that individual amounts for the payment of regular and periodic dues of the exclusive representative, the Department shall honor the assignment. Any such assignment shall be made at no cost to the exclusive representative or the individual. Except as provided in subsection (b), any such assignment may not be revoked for a period of one year from its execution.

(b) An assignment for deduction of dues shall terminate when—

(1) the labor organization ceases to be the exclusive representative;

(2) the individual ceases to receive a salary from the Department as a member of the Service; or

(3) the individual is suspended or expelled from membership in the exclusive representative.

(c) During any period when no labor organization is certified as the exclusive representative of employees in the Department, the Department shall have the duty to negotiate with a labor organization which has filed a petition under section 1011(b)(1)(A) alleging that 10 percent of the employees in the Department have membership in the organization if the Board has determined that the petition is valid. Negotiations under this subsection shall be concerned solely with the deduction of dues of the labor organization from the salary of the individuals who are members of the labor organization and who make a voluntary allotment for that purpose. Any agreement between the Department and a labor organization under this subsection shall terminate upon the certification of an exclusive representative of any employees to whom the agreement applies.

(d) The following provisions shall apply to the use of official time:

(1) Any employee representing an exclusive representative in the negotiation of a collective bargaining agreement under this chapter shall be authorized official time for such purposes, including attendance at impasse proceedings, during the time the employee otherwise would be in a duty status. The number of employees for whom official time is authorized under this paragraph shall not exceed the number of individuals designated as representing the Department for such purposes.

(2) Any activities performed by any employee relating to the internal business of the labor organization, including the solicitation of membership, elections of labor organization officials, and collection of dues, shall be performed during the time the employee is in a nonduty status.

(3) Except as provided in paragraph (1), the Board shall determine whether any employee participating for, or on behalf of, a labor organization in any phase of proceedings before the Board shall be authorized official time for such purpose during the time the employee would otherwise be in a duty status.

(4) Except as provided in paragraphs (1), (2), and (3), any employee representing an exclusive representative, or engaged in

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[169] 22 U.S.C. 4118.

any other matter covered by this chapter, shall be granted official time in any amount the Department and the exclusive representative agree to be reasonable, necessary, and in the public interest.

CHAPTER 11—GRIEVANCES

Sec. 1101.[170] **Definition of Grievance.**—(a)(1) Except as provided in subsection (b), for purposes of this chapter, the term "grievance" means any act, omission, or condition subject to the control of the Secretary which is alleged to deprive a member of the Service who is a citizen of the United States of a right or benefit authorized by law or regulation or which is otherwise a source of concern or dissatisfaction to the member, including—

(A) separation of the member allegedly contrary to laws or regulations, or predicated upon alleged inaccuracy, omission, error, or falsely prejudicial character of information in any part of the official personnel record of the member;

(B) other alleged violation, misinterpretation, or misapplication of applicable laws, regulations, or published policy affecting the terms and conditions of the employment or career status of the member;

(C) allegedly wrongful disciplinary action against the member;

(D) dissatisfaction with respect to the working environment of the member;

(E) alleged inaccuracy, omission, error, or falsely prejudicial character of information in the official personnel record of the member which is or could be prejudicial to the member;

(F) action alleged to be in the nature of reprisal or other interference with freedom of action in connection with participation by the member in procedures under this chapter; and

(G) alleged denial of an allowance, premium pay, or other financial benefit to which the member claims entitlement under applicable laws or regulations.

(2) The scope of grievances described in paragraph (1) may be modified by written agreement between the Department and the labor organization accorded recognition as the exclusive representative under chapter 10 (hereinafter in this chapter referred to as the "exclusive representative").

(b) For purposes of this chapter, the term "grievance" does not include—

(1) an individual assignment of a member under chapter 5, other than an assignment alleged to be contrary to law or regulation;

(2) the judgment of a selection board established under section 602, a tenure board established under section 306(b), or any other equivalent body established by laws or regulations which similarly evaluates the performance of members of the Service on a comparative basis;

(3) the expiration of a limited appointment, the termination of a limited appointment under section 611, or the denial of a

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[170] 22 U.S.C. 4131.

limited career extension or of a renewal of a limited career extension under section 607(b); or

(4) any complaint or appeal where a specific statutory hearing procedure exists, except as provided in section 1109(b).

(c) This chapter applies only with respect to the Department of State, the International Communication Agency, the United States International Development Cooperation Agency, the Department of Agriculture, and the Department of Commerce.

Sec. 1102.[171] **Grievances Concerning Former Members.**—Within the time limitations of section 1104, a former member of the Service or the surviving spouse (or, if none, another member of the family) of a deceased member or former member of the Service may file a grievance under this chapter only with respect to allegations described in section 1101(a)(1)(G).

Sec. 1103.[172] **Freedom of Action.**—(a) Any individual filing a grievance under this chapter (hereinafter in this chapter referred to as the "grievant"), and any witness, labor organization, or other person involved in a grievance proceeding, shall be free from any restraint, interference, coercion, harassment, discrimination, or reprisal in those proceedings or by virtue of them.

(b)(1) The grievant has the right to a representative of his or her own choosing at every stage of the proceedings under this chapter.

(2) In any case where the grievant is a member of a bargaining unit represented by an exclusive representative, but is not represented in the grievance by that exclusive representative, the exclusive representative shall have the right to appear during the grievance proceedings.

(3) The grievant, and any representative of the grievant who is a member of the Service or employee of the Department, shall be granted reasonable periods of administrative leave to prepare and present the grievance and to attend proceedings under this chapter.

(c) Any witness who is a member of the Service or employee of the Department shall be granted reasonable periods of administrative leave to appear and testify at any proceedings under this chapter.

(d)(1) No record of—

(A) a determination by the Secretary to reject a recommendation of the Foreign Service Grievance Board,

(B) a finding by the Grievance Board against the grievant, or

(C) the fact that a grievance proceeding is pending or has been held,

shall be entered in the personnel records of the grievant (except by order of the Grievance Board as a remedy for the grievance) or those of any other individual connected with the grievance.

(2) The Department shall maintain records pertaining to grievances under appropriate safeguards to preserve confidentiality.

(3) The Foreign Service Grievance Board may enforce compliance with the requirements of paragraphs (1) and (2).

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[171] 22 U.S.C. 4132.

[172] 22 U.S.C. 4133.

(e) The Department will use its best endeavors to expedite security clearance procedures whenever necessary to assure a fair and prompt resolution of a grievance.

Sec. 1104.[173] **Time Limitations.**—(a) A grievance is forever barred unless it is filed with the Department within a period of 3 years after the occurrence or occurrences giving rise to the grievance or such shorter period as may be agreed to by the Department and the exclusive representative. There shall be excluded from the computation of any such period any time during which, as determined by the Foreign Service Grievance Board, the grievant was unaware of the grounds for the grievance and could not have discovered such grounds through reasonable diligence.

(b) If a grievance is not resolved under Department procedures (which have been negotiated with the exclusive representative, if any) within ninety days after it is filed with the Department, the grievant or the exclusive representative (on behalf of a grievant who is a member of the bargaining unit) shall be entitled to file a grievance with the Foreign Service Grievance Board for its consideration and resolution.

Sec. 1105.[174] **Foreign Service Grievance Board.**—(a) There is established the Foreign Service Grievance Board (hereinafter in this chapter referred to as the "Board"). The Board shall consist of no fewer than 5 members who shall be independent, distinguished citizens of the United States, well known for their integrity, who are not employees of the Department or members of the Service.

(b) The Chairperson and other members of the Board shall be appointed by the Secretary of State, from nominees approved in writing by the agencies to which this chapter applies and the exclusive representative (if any) for each such agency. Each member of the Board shall be appointed for a term of 2 years, subject to renewal with the same written approvals required for initial appointment. In the event of a vacancy on the Board, an appointment for the unexpired term may be made by the Secretary of State in accordance with the procedures specified in this section. In the event of inability to obtain agreement on a nominee, each such agency and exclusive representative shall select 2 nominees and shall, in an order determined by lot, in turn strike a name from a list of such nominees until only one name remains. For purposes of this section, the nominee whose name remains shall be deemed to be approved in writing by each such agency head and exclusive representative.

(c) Members of the Board who are not employees of the Government shall be paid for each day they are performing their duties (including traveltime) at the daily equivalent of the maximum rate payable for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code.

(d) The Secretary of State may, upon written notice, remove a Board member for corruption, neglect of duty, malfeasance, or demonstrated incapacity to perform his or her functions, established at a hearing (unless the right to a hearing is waived in writing by the Board member).

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[173] 22 U.S.C. 4134.
[174] 22 U.S.C. 4135.

(e) The Board may obtain facilities, services, and supplies through the general administrative services of the Department of State. All expenses of the Board, including necessary costs of the travel and travel-related expenses of a grievant, shall be paid out of funds appropriated to the Department for obligation and expenditure by the Board. At the request of the Board, employees of the Department and members of the Service may be assigned as staff employees for the Board. Within the limits of appropriated funds, the Board may appoint and fix the compensation of such other employees as the Board considers necessary to carry out its functions. The individuals so appointed or assigned shall be responsible solely to the Board, and the Board shall prepare the performance evaluation reports for such individuals. The records of the Board shall be maintained by the Board and shall be separate from all other records of the Department of State under appropriate safeguards to preserve confidentiality.

Sec. 1106.[175] **Board Procedures.**—The Board may adopt regulations concerning its organization and procedures. Such regulations shall include provision for the following:

(1) The Board shall conduct a hearing at the request of a grievant in any case which involves—

(A) disciplinary action or the retirement of a grievant from the Service under section 607 or 608, or

(B) issues which, in the judgment of the Board, can best be resolved by a hearing or presentation of oral argument.

(2) The grievant, the representatives of the grievant, the exclusive representative (if the grievant is a member of the bargaining unit represented by the exclusive representative), and the representatives of the Department are entitled to be present at the hearing. The Board may, after considering the views of the parties and any other individuals connected with the grievance, decide that a hearing should be open to others. Testimony at a hearing shall be given under oath, which any Board member or individual designated by the Board shall have authority to administer.

(3) Each party (including an exclusive representative appearing in the proceedings) shall be entitled to examine and cross-examine witnesses at the hearing or by deposition and to serve interrogatories upon another party and have such interrogatories answered by the other party unless the Board finds such interrogatory irrelevant, immaterial, or unduly repetitive. Upon request of the Board, or upon a request of the grievant deemed relevant and material by the Board, an agency shall promptly make available at the hearing or by deposition any witness under its control, supervision, or responsibility, except that if the Board determines that the presence of such witness at the hearing is required for just resolution of the grievance, then the witness shall be made available at the hearing, with necessary costs and travel expenses paid by the Department.

(4) During any hearing held by the Board, any oral or documentary evidence may be received, but the Board shall exclude

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[175] 22 U.S.C. 4136.

any irrelevant, immaterial, or unduly repetitious evidence, as determined under section 556 of title 5, United States Code.

(5) A verbatim transcript shall be made of any hearing and shall be part of the record of proceedings.

(6) In those grievances in which the Board does not hold a hearing, the Board shall afford to each party the opportunity to review and to supplement, by written submissions, the record of proceedings prior to the decision by the Board. The decision of the Board shall be based exclusively on the record of proceedings.

(7) The Board may act by or through panels or individual members designated by the Chairperson, except that hearings within the continental United States shall be held by panels of at least three members unless the parties agree otherwise. References in this chapter to the Board shall be considered to be references to a panel or member of the Board where appropriate. All members of the Board shall act as impartial individuals in considering grievances.

(8) If the Board determines that the Department is considering the involuntary separation of the grievant, disciplinary action against the grievant, or recovery from the grievant of alleged overpayment of salary, expenses, or allowances, which is related to a grievance pending before the Board and that such action should be suspended, the Department shall suspend such action until the Board has ruled upon the grievance. Notwithstanding such suspension of action, the head of the agency concerned or a chief of mission or principal officer may exclude the grievant from official premises or from the performance of specified functions when such exclusion is determined in writing to be essential to the functioning of the post or office to which the grievant is assigned.

(9) The Board may reconsider any decision upon presentation of newly discovered or previously unavailable material evidence.

Sec. 1107.[176] **Board Decisions.**—(a) Upon completion of its proceedings, the Board shall expeditiously decide the grievance on the basis of the record of proceedings. In each case the decision of the Board shall be in writing, and shall include findings of fact and a statement of the reasons for the decision of the Board.

(b) If the Board finds that the grievance is meritorious, the Board shall have the authority to direct the Department—

(1) to correct any official personnel record relating to the grievant which the Board finds to be inaccurate or erroneous, to have an omission, or to contain information of a falsely prejudicial character;

(2) to reverse a decision denying the grievant compensation or any other perquisite of employment authorized by laws or regulations when the Board finds that such decision was arbitrary, capricious, or contrary to laws or regulations;

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[176] 22 U.S.C. 4137.

(3) to retain in the Service a member whose separation would be in consequence of the matter by which the member is aggrieved;

(4) to reinstate the grievant, and to grant the grievant back pay in accordance with section 5596(b)(1) of title 5, United States Code;

(5) to pay reasonable attorney fees to the grievant to the same extent and in the same manner as such fees may be required by the Merit Systems Protection Board under section 7701(g) of title 5, United States Code; and

(6) to take such other remedial action as may be appropriate under procedures agreed to by the Department and the exclusive representative (if any).

(c) Except as provided in subsection (d), decisions of the Board under this chapter shall be final, subject only to judicial review as provided in section 1110.

(d)[177] If the Board finds that the grievance is meritorious and that remedial action should be taken that relates directly to promotion, tenure or assignment of the grievant or to other remedial action not otherwise provided for in this section, or if the Board finds that the evidence before it warrants disciplinary action against any employee of the Department or member of the Service, it shall make an appropriate recommendation to the Secretary. The Secretary shall make a written decision on the recommendation of the Board within 30 days after receiving the recommendation. The Secretary shall implement the recommendation of the Board except to the extent that, in a decision made within that 30-day period, the Secretary rejects the recommendation in whole or in part on the basis of a determination that implementation of the recommendation would be contrary to law or would adversely affect the foreign policy or national security of the United States. If the Secretary rejects the recommendation in whole or in part, the decision shall specify the reasons for such action. Pending the decision of the Secretary, there shall be no ex parte communication concerning the grievance between the Secretary, and any person involved in the proceedings of the Board. The Secretary shall, however, have access to the entire record of the proceedings of the Board.

(2)[177] A recommendation under paragraph (1) shall, for purposes of section 1110 of this Act, be considered a final action upon the expiration of the 30-day period referred to in such paragraph, except to the extent that it is rejected by the Secretary by an appropriate written decision.

(3)[177] (A) If the Secretary makes a written decision under paragraph (1) rejecting a recommendation in whole or in part on the basis of a determination that implementing such recommendation would be contrary to law, the Secretary shall, within the 30-day period referred to in such paragraph—

(i) submit a copy of such decision to the Board; and

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[177] Sec. 181 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204, 101 Stat. 1363) redesignated subsec. (d) as paragraph (1) and added the word "tenure" in the first sentence. It also added new paragraphs (2) and (3). Sec. 181(e) of the same Act provided that these amendments not apply with respect to any grievance in which the Board has issued a final decision pursuant to this section before their enactment.

(ii) request that the Board reconsider its recommendation or, if less than the entirety is rejected, that the Board reconsider the portion rejected.

(B)(i) Within 30 days after receiving a request under subparagraph (A), the Board shall, after reviewing the Secretary's decision, make a recommendation to the Secretary either confirming, modifying, or vacating its original recommendation or, if less than the entirety was rejected, the portion involved.

(ii) Reconsideration under this subparagraph shall be limited to the question of whether implementing the Board's original recommendation, either in whole or in part, as applicable, would be contrary to law.

(C) A recommendation made under subparagraph (B) shall be considered a final action for purposes of section 1110 of this Act, and shall be implemented by the Secretary.

(e)[178] (1) The Board shall maintain records of all grievances awarded in favor of the grievant in which the grievance concerns gross misconduct by a supervisor. Subject to paragraph (2), the Committee on Foreign Relations of the Senate shall be provided with a copy of the grievance decision whenever such a supervisor is nominated for any position requiring the advice and consent of the Senate and the Board shall provide access to the entire record of any proceedings of the Board concerning such a grievance decision to any Member of the Committee on Foreign Relations upon a request by the Chairman or Ranking Minority Member of such committee.

(2)(A) Except as provided in subparagraph (B), all decisions, proceedings, and other records disclosed pursuant to paragraph (1) shall be treated as confidential and may be disclosed only to Committee members and appropriate staff.

(B) Whenever material is provided to the Committee or a Member thereof pursuant to paragraph (1), the Board shall, at the same time, provide a copy of all such material to the supervisor who is the subject of such material.

(C) A supervisor who is the subject of records disclosed to the committee pursuant to this subsection shall have the right to review such record and provide comments to the Committee concerning such record. Such comments shall be treated in a confidential manner.

Sec. 1108.[179] **Access to Records.**—(a) If a grievant is denied access to any agency record prior to or during the consideration of the grievance by the Department, the grievant may raise such denial before the Board in connection with the grievance.

(b) In considering a grievance, the Board shall have access to any agency record as follows:

(1)(A) The Board shall request access to any agency record which the grievant requested to substantiate the grievance if the Board determines that such record may be relevant and material to the grievance.

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[178] Subsec. (e) was added by sec. 182 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100–204, 101 Stat. 1364).

[179] 22 U.S.C. 4138.

(B) The Board may request access to any other agency record which the Board determines may be relevant and material to the grievance.

(2) Any agency shall make available to the Board any agency record requested under paragraph (1) unless the head or deputy head of such agency personally certifies in writing to the Board that disclosure of the record to the Board and the grievant would adversely affect the foreign policy or national security of the United States or that such disclosure is prohibited by law. If such a certification is made with respect to any record, the agency shall supply to the Board a summary or extract of such record unless the reasons specified in the preceding sentence preclude such a summary or extract.

(c) If the Board determines that an agency record, or a summary or extract of a record, made available to the Board under subsection (b) is relevant and material to the grievance, the agency concerned shall make such record, summary, or extract, as the case may be, available to the grievant.

(d) In considering a grievance, the Board may take into account the fact that the grievant or the Board was denied access to an agency record which the Board determines is or may be relevant and material to the grievance.

(e) The grievant in any case decided by the Board shall have access to the record of the proceedings and the decision of the Board.

Sec. 1109.[180] **Relationship to Other Remedies.**—(a) A grievant may not file a grievance with the Board if the grievant has formally requested, prior to filing a grievance, that the matter or matters which are the basis of the grievance be considered or resolved and relief be provided under another provision of law, regulation, or Executive order, other than under section 1206 of title 5, United States Code, and the matter has been carried to final decision under such provision on its merits or is still under consideration.

(b) If a grievant is not prohibited from filing a grievance under subsection (a), the grievant may file with the Board a grievance which is also eligible for consideration, resolution, and relief under chapter 12 of title 5, United States Code, or a regulation or Executive order other than under this chapter. An election of remedies under this section shall be final upon the acceptance of jurisdiction by the Board.

Sec. 1110.[181] **Judicial Review.**—Any aggrieved party may obtain judicial review of a final action of the Secretary or the Board on any grievance in the district courts of the United States in accordance with the standards set forth in chapter 7 of title 5, United States Code. Section 706 of title 5, United States Code, shall apply without limitation or exception.

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[180] 22 U.S.C. 4139.

[181] 22 U.S.C. 4140.

TITLE II—TRANSITION, AMENDMENTS TO OTHER LAWS, AND MISCELLANEOUS PROVISIONS

CHAPTER 1—TRANSITION

Sec. 2101.[182] **Pay and Benefits Pending Conversion.**—Until converted under the provisions of this chapter, any individual who is in the Foreign Service before the effective date of this Act and is serving under an appointment as a Foreign Service officer, Foreign Service information officer, Foreign Service Reserve officer with limited or unlimited tenure, or Foreign Service staff officer or employee, shall be treated for purposes of salary, allowances, and other matters as if such individual had been converted under section 2102 or 2103, as the case may be, on the effective date of this Act, except that any adjustment of salary under this section shall take effect—

(1) in the case of an individual who is in the Foreign Service on the date of enactment of this Act, on the first day of the first pay period which begins on or after October 1, 1980, and

(2) in the case of an individual who is appointed to the Foreign Service after the date of enactment of this Act, on the date such appointment becomes effective.

Sec. 2102.[183] **Conversion to the Foreign Service Schedule.**—(a) Not later than 120 days after the effective date of this Act, the Secretary shall, in accordance with section 2106, convert to the appropriate class in the Foreign Service Schedule established under section 403 of this Act those individuals in the Foreign Service who are serving immediately before the effective date of this Act under appointments at or below class 3 of the schedule established under section 412 or 414 of the Foreign Service Act of 1946, or at any class in the schedule established under section 415 of such Act, as—

(1) Foreign Service officers, or

(2) Foreign Service Reserve officers with limited or unlimited tenure, and Foreign Service staff officers or employees, who the Secretary determines are available for worldwide assignment.

(d) Not later than 3 years after the effective date of this Act, Foreign Service Reserve officers and staff officers and employees who the Secretary determines under subsection (a)(2) are not available for worldwide assignment shall also be converted, in accordance with section 2106, to the appropriate class in the Foreign Service Schedule established under section 403 if—

(1) the Secretary certifies that there is a need for their services in the Foreign Service; and

(2) they agree in writing to accept availability for worldwide assignment as a condition of continued employment.

Sec. 2103.[184] **Conversion to the Senior Foreign Service.**—(a) Foreign Service officers and Foreign Service Reserve officers with limited or unlimited tenure who, immediately before the effective date of this Act, are serving under appointments at class 2 or a higher class of the schedule established under section 412 or 414 of the Foreign Service Act of 1946 may at any time within 120 days after such date submit to the Secretary a written request for appointment to the Senior Foreign Service.

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[182] 22 U.S.C. 4151.

[183] 22 U.S.C. 4152.

[184] 22 U.S.C. 4153.

(b) Except as provided in subsection (d), if a request is submitted under subsection (a) by a Foreign Service Reserve officer with limited tenure, the Secretary shall grant to such officer a limited appointment to the Senior Foreign Service in the appropriate class established under section 402 of this Act.

(c) If a request is submitted under subsection (a) by a Foreign Service officer or, except as provided in subsection (d), a Foreign Service Reserve officer with unlimited tenure, the Secretary shall recommend to the President a career appointment of such officer, by and with the advice and consent of the Senate, to the Senior Foreign Service in the appropriate class established under section 402 of this Act.

(d) If the Secretary determines that a Foreign Service Reserve officer with limited or unlimited tenure who submits a request under subsection (a) is not available for worldwide assignment, an appointment under subsection (b) or a recommendation for appointment under subsection (c) shall be made only if—

(1) the Secretary certifies that there is a need for the services of such officer in the Senior Foreign Service; and

(2) such officer agrees in writing to accept availability for worldwide assignment as a condition of continued employment.

(e) If a Foreign Service officer or a Foreign Service Reserve officer who is eligible to submit a request under subsection (a) submits a written request for appointment to the Senior Foreign Service to the Secretary more than 120 days after the effective date of this Act and before the end of the 3-year period beginning on such effective date, the Secretary (in the case of a Foreign Service Reserve officer with limited tenure) may grant a limited appointment to, or (in the case of a Foreign Service officer or Foreign Service Reserve officer with unlimited tenure) may recommend to the President a career appointment of, the requesting officer to the appropriate class established under section 402 of this Act, subject to the conditions specified in subsection (d) and such other conditions as the Secretary may prescribe consistent with the provisions of chapter 6 of title I of this Act relating to promotion into the Senior Foreign Service.

(f) Any officer of the Foreign Service who is eligible to submit a request under subsection (a) and—

(1) who does not submit a request under subsection (a), or

(2) who submits such a request more than 120 days after the effective date of this Act and is not appointed to the Senior Foreign Service for any reason other than failure to meet the conditions specified in subsection (d),

may not remain in the Foreign Service for more than 3 years after the effective date of this Act. During such period, the officer shall be subject to the provisions of title I of this Act applicable to members of the Senior Foreign Service, except that such officer shall not be eligible to compete for performance pay under section 405 and shall not be eligible for a limited career extension as described in section 607(b). Upon separation from the Service, any such officer who is a participant in the Foreign Service Retirement and Disability System shall be entitled to retirement benefits on the same basis as a member retired from the Senior Foreign Service under section 607(c)(1), and section 609(a)(2)(B) shall be deemed to apply to such officer.[185]

Sec. 2104.[186] **Conversion From the Foreign Service.**—(a) In the case of any individual in the Foreign Service who, immediately before the effective date of this Act, is serving under an appointment described in section 2102(a) or 2103(a) and who is not converted under section 2102 or section 2103 because such individual does not meet the conditions specified in section 2102(b) or 2103(d), the Secretary shall, not later than 3 years after the effective date of this Act, provide that—

(1) the position such individual holds shall be subject to chapter 51 and subchapter III of chapter 53 of title 5, United States Code;

(2) such individual shall be appointed to such position without competitive examination; and

(3) such position shall be considered to be in the competitive service so long as the individual continues to hold that position;

except that any such individual who meets the eligibility requirements for the Senior Executive Service and who elects to join that Service shall be converted by the Secretary to the Senior Executive Service in the appropriate rate of basic pay established under section 5382 of title 5, United States Code.

(b) In the case of individuals in the Foreign Service in the International Communication Agency who immediately before the date of enactment of this Act are covered by a collective bargaining agreement between the Agency and the exclusive representative of those individuals, the 3-year period referred to in subsection (a) shall begin on July 1, 1981.

(c) [187] The three-year period referred to in subsection (a) shall be extended for an additional period not to exceed one year from the date of enactment of this section in the case of Department of State security officers who are members of the Service and who were initially ineligible for conversion under that subsection because they were available for worldwide assignment and there was a need for their services in the Service, but as to whom subsequent events require the services of these members (and of those later employed who are similarly situated) only or primarily for domestic functions.

Sec. 2105.[188] **Conversion of Certain Positions in the Department of Agriculture.**—(a) Not later than 15 days after the effective date of this Act, the Secretary of Agriculture shall—

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[185] Sec. 128 of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98-164, 97 Stat. 1027) substituted the words to this point beginning with "on the same basis as a member retired * * *" in lieu of the words "determined in accordance with chapter 8 of title I of this Act.".

[186] 22 U.S.C. 4154.

[187] Sec. 132 of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98-164, 97 Stat. 1028) added subsec. (c).

[188] 22 U.S.C. 4155.

(1) designate and classify under section 501 of this Act those positions in the Foreign Agricultural Service under the General Schedule described in section 5332 of title 5, United States Code, which the Secretary of Agriculture determines are to be occupied by career members of the Foreign Service, and

(2) provide written notice to individuals holding those positions of such designation and classification of the personnel category under section 103 which will apply to such individual.

(b) Each employee serving in a position at the time it is designated under subsection (a) shall, not later than 120 days after notice of such designation, elect—

(1) to accept conversion to the Foreign Service, in which case such employee shall be converted in accordance with the provisions of subsection (c); or

(2) to decline conversion to the Foreign Service and have the provisions of subsection (d) apply.

(c)(1) The Secretary of Agriculture shall recommend to the President for appointment to the appropriate class (as determined under paragraph (2)), by and with the advice and consent of the Senate, those employees who elect conversion under subsection (a)(1).

(2) The Secretary of Agriculture shall appoint as Foreign Service personnel those employees who elect to accept conversion and who are not eligible for appointment under paragraph (1).

(d) Any employee who declines conversion under subsection (b)(2) shall for so long as that employee continues to hold the designated position be deemed to be a member of the Foreign Service for purposes of allowances, differentials, and similar benefits (as determined by the Secretary of Agriculture).

Sec. 2106.[189] **Preservation of Status and Benefits.**—(a)(1) Every individual who is converted under this chapter shall be converted to the class or grade and pay rate that most closely corresponds to the class or grade and step at which the individual was serving immediately before conversion. No conversion under this chapter shall cause any individual to incur a reduction in his or her class, grade, or basic rate of salary.

(2) An individual converted under section 2104 to a position in the competitive service shall be entitled to have that position, or any other position to which the individual is subsequently assigned (other than at the request of the individual), be considered for all purposes as at the grade which corresponds to the class in which the individual served immediately before conversion so long as the individual continues to hold that position.

(b)(1) Any participant in the Foreign Service Retirement and Disability System who would, but for this paragraph, participate in the Civil Service Retirement and Disability System by virtue of conversion under this chapter shall remain a participant in the Foreign Service Retirement and Disability System for 120 days after participation in the Foreign Service Retirement and Disability System would otherwise cease. During such 120-day period, the individual may elect in writing to continue to participate in the Foreign Service Retirement and Disability System instead of the

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[189] 22 U.S.C. 4156.

Civil Service Retirement and Disability System so long as he or she is employed in an agency which is authorized to utilize the Foreign Service personnel system. If such an election is not made, the individual shall then be covered by the Civil Service Retirement and Disability System and contributions made by the participant to the Foreign Service Retirement and Disability Fund shall be transferred to the Civil Service Retirement and Disability Fund.

(2) Any Foreign Service Reserve officer with limited tenure who has reemployment rights to a personnel category in the Foreign Service in which he or she would be a participant in the Foreign Service Retirement and Disability System and who would, but for this paragraph, continue to participate in the Civil Service Retirement and Disability System by virtue of conversion under section 2104 may elect, during the 120-day period beginning on the date of such conversion, to become a participant in the Foreign Service Retirement and Disability System so long as he or she is employed in an agency which is authorized to utilize the Foreign Service personnel system. If such an election is made, the individual shall be transferred to the Foreign Service Retirement and Disability System and contributions made by that individual to the Civil Service Retirement and Disability Fund shall be transferred to the Foreign Service Retirement and Disability Fund.

(c) Individuals who are converted under this chapter shall be converted to the type of appointment which corresponds most closely in tenure to the type of appointment under which they were serving immediately prior to such conversion, except that this chapter shall not operate to extend the duration of any limited appointment or previously applicable time in class.

(d) Any individual who on the effective date of this Act is serving—

(1) under an appointment in the Foreign Service, or

(2) in any other office or position continued by this Act,

may continue to serve under such appointment, subject to the provisions of this Act, and need not be reappointed by virtue of the enactment of this Act.

(e) Any individual in the Foreign Service—

(1) who is serving under a career appointment on the date of enactment of this Act, and

(2) who was not subject to section 633(a)(2) of the Foreign Service Act of 1946 immediately before the effective date of this Act,

may not be retired under section 608 of this Act until 10 years after the effective date of this Act or when such individual first becomes eligible for an immediate annuity under chapter 8 of title I of this Act, whichever occurs first.

Sec. 2107.[190] **Regulations.**—Under the direction of the President, the Secretary shall prescribe regulations for the implementation of this chapter.

Sec. 2108.[191] **Authority of Other Agencies.**—The heads of agencies other than the Department of State which utilize the Foreign

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[190] 22 U.S.C. 4157.

[191] 22 U.S.C. 4158.

Service personnel system shall perform functions under this chapter in accordance with regulations prescribed by the Secretary of State under section 2107. Such agency heads shall consult with the Secretary of State in the exercise of such functions.

Sec. 2109.[192] **Survivor Benefits for Certain Former Spouses.**—(a) Any participant or former participant in the Foreign Service Retirement and Disability System who on February 15, 1981, has a former spouse may, by a spousal agreement, elect to receive a reduced annuity and provide a survivor annuity for such former spouse under section 814(b).

(b)(1) If the participant or former participant has not retired under such system on or before February 15, 1981, an election under this section may be made at any time before retirement.

(2) If the participant or former participant has retired under such system on or before February 15, 1981, an election under this section may be made within such period after February 15, 1981, as the Secretary of State may prescribe.

(3) For purposes of applying chapter 8 of title I, any such election shall be treated the same as if it were a spousal agreement under section 820(b)(1).

(c) An election under this section may provide for a survivor benefit based on all or any portion of that part of the annuity of the participant which is not designated or committed as a base for survivor benefits for a spouse or any other former spouse of the participant. The participant and his or her spouse may make an election under section 806(b)(1)(B) prior to the time of retirement for the purpose of allowing an election to be made under this section.

(d) The amount of the reduction in the participant's annuity shall be determined in accordance with section 806(b)(2). Such reduction shall be effective as of—

(1) the commencing date of the participant's annuity, in the case of an election under subsection (b)(1), or

(2) February 15, 1981, in the case of an election under subsection (b)(2).

(e) For purposes of this section, the terms "former spouse", "participant", and "spousal agreement" have the meanings given such terms in sections 803 and 804.

CHAPTER 2—PROVISIONS RELATING TO FOREIGN AFFAIRS AGENCIES

Sec. 2201.[193] **Basic Authorities of the Department of State.**—* * *

Sec. 2202.[194] **Peace Corps Act.**—* * *

Sec. 2203.[195] **Foreign Assistance Act.**—* * *

Sec. 2204.[196] **Arms Control and Disarmament Act.**—* * *

Sec. 2205. Repealed Provisions.—The following are repealed:

(1) The Act entitled "An Act to improve, strengthen, and expand the Foreign Service of the United States and to consolidate and revise the laws relating to its administration", ap-

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[192] 22 U.S.C. 4159.

[193] Sec. 2201 consisted of amendments to the State Department Basic Authorities Act of 1956.

[194] Sec. 2202 consisted of amendments to the Peace Corps Act.

[195] Sec. 2203 consisted of amendments to the Foreign Assistance Act of 1961.

[196] Sec. 2204 consisted of amendments to the Arms Control and Disarmament Act.

proved August 13, 1946, titles I through X of such Act being the Foreign Service Act of 1946, (22 U.S.C. 801–810, 816, 817, 821, 826, 827, 841–843, 846, 861, 866–873, 876, 877, 881, 882, 886, 889, 890, 896, 900, 901, 902, 906–915, 921–924, 926–928, 936–939, 946, 947, 951, 961–966, 968, 981, 986, 987, 991–996, 1001–1009, 1016, 1017, 1021, 1022, 1026–1028, 1031, 1036, 1037–1037c, 1041–1048, 1061–1065, 1071, 1076, 1076a, 1081, 1082, 1084, 1086, 1091, 1093, 1095, 1101, 1103–1106, 1111, 1112, 1116, 1121, 1131, 1136–1138a, 1139, 1148–1151, and 1156–1160).

(2) Sections 401 and 413 of the Foreign Relations Authorization Act, Fiscal Year 1979 (92 Stat. 981, 986).

(3) Section 413 of the Foreign Relations Authorization Act, Fiscal Year 1978 (91 Stat. 857).

(4) Sections 117, 120, and 522 of the Foreign Relations Authorization Act, Fiscal Year 1977 (90 Stat. 827, 829, 846).

(5) Section 6 of the Department of State Appropriations Authorization Act of 1973 (87 Stat. 452).

(6) The Act entitled "An Act to promote the foreign policy of the United States by strengthening and improving the Foreign Service personnel system of the International Communication Agency through establishment of a Foreign Service Information Officer Corps", approved August 20, 1968 (22 U.S.C. 929–932, 1221–1234).

(7) Section 104(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2454(c)).

(8) Subsections (e), (g), (j), and (k) of section 625 of the Foreign Assistance Act of 1961 (22 U.S.C. 2385 (e), (g), (j), and (k)).

(9) Section 7(b) of the Peace Corps Act (22 U.S.C. 2506(b)).

(10) Sections 14 and 16 of the Act entitled "An Act to provide certain basic authority for the Department of State", approved August 1, 1956 (22 U.S.C. 2679a, 2680a).

(11) Section 124(a)(2) of the International Development and Food Assistance Act of 1977 (91 Stat. 542).

(12) The Act entitled "An Act to make certain increases in the annuities of annuitants under the Foreign Service retirement and disability system", approved May 21, 1952 (22 U.S.C. 1077, 1078).

(13) The Act entitled "An Act to make certain increases in the annuities of annuitants under the Foreign Service retirement and disability system", approved May 1, 1956 (22 U.S.C. 1079–1079f).

(14) The Act entitled "An Act to provide for adjustment in the annuities under the Foreign Service retirement and disability system", approved September 2, 1958 (22 U.S.C. 1079g–1079j).

(15) The Act entitled "An Act to provide for adjustments in the annuities under Foreign Service retirement and disability system", approved July 12, 1960 (22 U.S.C. 1079l).

(16) The Foreign Service Annuity Adjustment Act of 1965 (22 U.S.C. 1079m–1079s).

Sec. 2206. Other Conforming Amendments.—(a)(1) Section 3(b) of the Asian Development Bank Act (22 U.S.C. 285a(b)) is amended by striking out "a Chief of Mission, class 2, within the meaning of the

Foreign Service Act of 1946, as amended" and inserting in lieu thereof "a chief of mission under the Foreign Service Act of 1980".

(2) The United Nations Participation Act of 1945 is amended—

(A) in section 2(g) (22 U.S.C. 287(g)) by striking out "sections 411 and 412 of the Foreign Service Act of 1946 (Public Law 724, Seventy-ninth Congress) for chiefs of mission" and inserting in lieu thereof "sections 401, 402 and 403 of the Foreign Service Act of 1980 for chiefs of mission, members of the Senior Foreign Service,"; and

(B) in section 8 (22 U.S.C. 287e) by striking out "section 901(3) of the Foreign Service Act of 1946 (Public Law 724, Seventy-ninth Congress)" and inserting in lieu thereof "section 905 of the Foreign Service Act of 1980".

(3) Section 2 of the joint resolution entitled "Joint Resolution providing for membership and participation by the United States in the United Nations Educational, Scientific, and Cultural Organization, and authorizing an appropriation therefor", approved July 30, 1946 (22 U.S.C. 287n), is amended by striking out "Foreign Service officers in the schedule contained in section 412 of the Foreign Service Act of 1946, as amended," and inserting in lieu thereof "members of the Senior Foreign Service under section 402 of the Foreign Service Act of 1980, or provided for Foreign Service officers under section 403 of that Act,".

(4) Section 2 of the joint resolution entitled "Joint Resolution providing for membership and participation by the United States in the World Health Organization and authorizing an appropriation therefor", approved June 14, 1948 (22 U.S.C. 290a), is amended by striking out "provided by section 412 of the Foreign Service Act of 1946, as amended," and inserting in lieu thereof "established under section 402 or 403 of the Foreign Service Act of 1980".

(5) Section 203(b) of the African Development Fund Act (22 U.S.C. 290g-1(b)) is amended by striking out "a Chief of Mission, class 2, within the meaning of the Foreign Service Act of 1946, as amended and inserting in lieu thereof "a chief of mission under the Foreign Service Act of 1980".

(6) Section 408 of the Mutual Security Act of 1954 (22 U.S.C. 1928) is amended—

(A) in subsection (a) by striking out "Foreign Service Act of 1946, as amended (22 U.S.C. 801)," and inserting in lieu thereof "Foreign Service Act of 1980";

(B) in subsection (b) by striking out "chief of mission, class 1, within the meaning of the Foreign Service Act of 1946, as amended (22 U.S.C. 801)" and inserting in lieu thereof "chief of mission under the Foreign Service Act of 1980"; and

(C) in subsection (c) by striking out "section 529 of this Act who are appointed as Foreign Service Reserve officers may serve for periods of more than five years notwithstanding the limitation in section 522 of the Foreign Service Act of 1946, as amended (22 U.S.C. 922)" and inserting in lieu thereof "section 628 of the Foreign Assistance Act of 1961 who are members of the Foreign Service serving under limited appointments may serve for periods of more than five years notwithstanding the limitation in section 309 of the Foreign Service Act of 1980".

(7) The International Atomic Energy Agency Participation Act of 1957 is amended—

(A) in section 2(d) (22 U.S.C. 2021(d))—

(i) in the first sentence by striking out "section 411 and 412 of the Foreign Service Act of 1946, as amended (22 U.S.C. 866, 867), for Chiefs of Mission" and inserting in lieu thereof "sections 401, 402, and 403 of the Foreign Service Act of 1980 for chiefs of mission, members of the Senior Foreign Service,", and

(ii) in the second sentence by striking out "by Chiefs of Mission" and inserting in lieu thereof "under the Foreign Service Act of 1980 by chiefs of mission, members of the Senior Foreign Service,"; and

(B) in section 5 (22 U.S.C. 2024)—

(i) by striking out "Foreign Service Act of 1946, as amended," and inserting in lieu thereof "Foreign Service Act of 1980", and

(ii) by striking out "Foreign Service Act of 1946, as amended," and inserting in lieu thereof "Foreign Service Act of 1980", and

(8) Section 704(b) of the Center for Cultural and Technical Interchange Between East and West Act of 1960 (22 U.S.C. 2056(b)) is amended by striking out "title X, part C of the Foreign Service Act of 1946, as amended" and inserting in lieu thereof "section 25 of the State Department Basic Authorities Act of 1956".

(9) Section 104(d) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 245(d)) is amended by striking out "section 528" and all that follows through "such persons" and inserting in lieu thereof "section 310 of the Foreign Service Act of 1980 for individuals appointed to the Foreign Service".

(10) Section 5(a) of the Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2605(a)) is amended—

(A) in paragraph (1) by striking out "Foreign Service personnel" and inserting in lieu thereof "members of the Foreign Service";

(B) in paragraph (2) by striking out "Foreign Service Reserve officers" and inserting in lieu thereof "members of the Foreign Service serving under limited appointments"; and

(C) in paragraph (4) by striking out "Foreign Service Act of 1946, as amended (22 U.S.C. 801 et seq.)" and inserting in lieu thereof "Foreign Service Act of 1980".

(11) Section 403(c) of the International Development Cooperation Act of 1979 (22 U.S.C. 3503(c)) is amended by striking out "Foreign Service Act of 1946" and inserting in lieu thereof "Foreign Service Act of 1980".

(b)(1) Section 605A(h) of the Act entitled "An Act to provide for greater stability in agriculture; to augment the marketing and disposal of agricultural products; and for other purposes", approved August 28, 1954 (7 U.S.C. 176a(h)), is amended by striking out "Foreign Service personnel" and inserting in lieu thereof "members of the Foreign Service".

(2) Section 606D of such Act (7 U.S.C. 1766c) is amended by striking out "title IX of the Foreign Service Act of 1946" and inserting

in lieu thereof "chapter 9 of title I of the Foreign Service Act of 1980".

(c)(1) Section 2002(a) of title 10, United States Code, is amended—

(A) in the text preceding paragraph (1) by striking out "section 1041 of title 22" and inserting in lieu thereof "section 701(b) of the Foreign Service Act of 1980"; and

(B) in paragraph (2) by striking out "section 1041 of title 22" and inserting in lieu thereof "section 701(a) of the Foreign Service Act of 1980".

(d) Section 8(a)(1) of the Defense Department Overseas Teachers Pay and Personnel Practices Act (20 U.S.C. 906(a)(1)) is amended by striking out "section 901(2) of the Foreign Service Act of 1946 (22 U.S.C. 1131(2))" and inserting in lieu thereof "section 5924 of title 5, United States Code.

(e)(1) Section 104(a)(4) of the Internal Revenue Code of 1954 (26 U.S.C. 104(a)(4)) is amended by striking out "section 831 of the Foreign Service Act of 1946, as amended (22 U.S.C. 1081)" and inserting in lieu thereof "section 808 of the Foreign Service Act of 1980".

(2) Section 170(i) of the Internal Revenue Code of 1954 (26 U.S.C. 170(i)) is amended by amending paragraph (6) to read as follows:

> **"(6) For treatment of gifts accepted by the Secretary of State, the Director of the International Communication Agency, or the Director of the United States International Development Cooperation Agency, as gifts to or for the use of the United States, see section 25 of the State Department Basic Authorities Act of 1956.".**

(3) Section 912(1)(A) of the Internal Revenue Code of 1954 (26 U.S.C. 912(1)(A)) is amended to read as follows:

"(A) chapter 9 of title I of the Foreign Service Act of 1980,".

(4) Section 2055(f)(5) of the Internal Revenue Code of 1954 (26 U.S.C. 2055(f)(5)) is amended to read as follows:

> **"(5) For treatment of gifts, devises, or bequests accepted by the Secretary of State, the Director of the International Communication Agency, or the Director of the United States International Development Cooperation Agency as gifts, devises, or bequests to or for the use of the United States, see section 25 of the State Department Basic Authorities Act of 1956.".**

(f) Section 10(d) of the Gold Reserve Act of 1934 (31 U.S.C. 822a(d)) is amended by striking out "title IX of the Foreign Service Act of 1946, as amended" and inserting in lieu thereof "chapter 9 of title I of the Foreign Service Act of 1980".

(g) Section 235 of title 38, United States Code, is amended—

(1) in paragraph (1) by striking out "Section 1131 of title 22" and inserting in lieu thereof "Section 905 of the Foreign Service Act of 1980";

(2) in paragraph (2) by striking out "Section 1136 (1), (2), (3), (4), (5), (7), and (11) of title 22" and inserting in lieu thereof "Sections 901 (1), (2), (3), (4), (7), (8), (9), (11), and (12) of the Foreign Service Act of 1980";

(3) in paragraph (3) by striking out "Section 1138 of title 22" and inserting in lieu thereof "Section 901(13) of the Foreign Service Act of 1980";

(4) in paragraph (4) by striking out "Section 1148 of title 22" and inserting in lieu thereof "Section 903 of the Foreign Service Act of 1980"; and

(5) in paragraph (5) by striking out "Section 1156 of title 22" and inserting in lieu thereof "Section 904(d) of the Foreign Service Act of 1980".

(h) Section 415(c) of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5055(c)) is amended—

(1) in paragraph (1) by striking out "section 852(a)(1) of the Foreign Service Act of 1946, as amended (22 U.S.C. 1092(a)(1)), and every other" and inserting in lieu thereof "any"; and

(2) in paragraph (2) by striking out "Foreign Service Act of 1946" and inserting in lieu thereof "Foreign Service Act of 1980".

Sec. 2207.[197] **Model Foreign Language Competence Posts.**—(a) In order to carry out the purposes of section 702 and to help ascertain the relationship between foreign language competence and the effectiveness of representation of the United States abroad, the Secretary of State shall designate as model foreign language competence posts at least two Foreign Service posts in countries where English is not the common language. Such designation shall be made no later than October 1, 1981, and shall be implemented so that no later than October 1, 1983, each Government employee permanently assigned to those posts shall possess an appropriate level of competence in the language common to the country where the post is located. The Secretary of State shall determine appropriate levels of language competence for employees assigned to those posts by reference to the nature of their functions and the standards employed by the Foreign Service Institute.

(b) The posts designated under subsection (a) shall continue as model foreign language competence posts at least until September 30, 1985. The Secretary of State shall submit no later than January 31, 1986, a report to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate describing the operation of such posts and the costs, advantages and disadvantages associated with meeting the foreign language competence requirements of this section.

(c) The Secretary of State may authorize exceptions to the requirements of this section if he determines that unanticipated exigencies so require. Such exceptions shall be annually reported to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate.

CHAPTER 3—AMENDMENTS TO TITLE 5, UNITED STATES CODE

Sec. 2301. Reemployment Rights.—(a) Chapter 35 of title 5, United States Code, is amended by adding at the end thereof the following new subchapter:

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[197] 22 U.S.C. 4171.

"SUBCHAPTER VI—REEMPLOYMENT FOLLOWING LIMITED APPOINTMENT IN THE FOREIGN SERVICE

"§ 3597. Reemployment following limited appointment in the Foreign Service

"An employee of any agency who accepts, with the consent of the head of that agency, a limited appointment in the Foreign Service under section 309 of the Foreign Service Act of 1980 is entitled, upon the expiration of that appointment, to be reemployed in that employee's former position or in a corresponding or higher position in that agency. Upon reemployment under this section, an employee shall be entitled to any within-grade increases in pay which the employee would have received if the employee had remained in the former position in the agency.".

(b) The analysis for chapter 35 of title 5, United States Code, is amended by adding at the end thereof the following:

"SUBCHAPTER VI—REEMPLOYMENT FOLLOWING LIMITED APPOINTMENT IN THE FOREIGN SERVICE

"§ 3597. Reemployment following limited appointment in the Foreign Service.".

Sec. 2302. Salary for Ambassadors at Large.—Section 5313 of title 5, United States Code, is amended by adding the following at the end thereof:

"Ambassadors at Large.".

Sec. 2303. Advances of Pay Incident to Departures From Posts Abroad.—(a) Section 5522(a) of title 5, United States Code, is amended—

(1) by striking out "evacuation" and inserting in lieu thereof "departure"; and

(2) by striking out "is ordered for military or other reasons which create imminent danger to the life or lives of the employee or of his dependents or immediate family" and inserting in lieu thereof "is officially authorized or ordered—

"(1) from a place outside the United States from which the Secretary of State determines it is in the national interest to require the departure of some or all employees, their dependents, or both; or

"(2) from any place where there is imminent danger to the life of the employee or the lives of the dependents or immediate family of the employee".

(b) Section 5522(b) of title 5, United States Code, is amended by striking out "evacuation" and inserting in lieu thereof "departure".

(c) Section 5523(a)(1) of title 5, United States Code, is amended—

(1) by amending subparagraph (A) to read as follows:

"(A) whose departure is authorized or ordered under section 5522(a) of this title; and"; and

(2) in subparagraph (B) by striking out "evacuation" and inserting in lieu thereof "departure".

(d) Section 5523(b) of title 5, United States Code, is amended by striking out "evacuation" both places it appears and inserting in lieu thereof "departure".

(e) Section 405a(a) of title 37, United States Code, is amended by striking out "evacuated" and "evacuation" wherever they appear and inserting in lieu thereof "to depart" and "departure", respectively.

Sec. 2304. Premium Pay.—Paragraph (2) of section 5541 of title 5, United States Code, is amended by striking out clauses (xiv) and (xv) and inserting in lieu thereof the following:

"(xiv) a Foreign Service officer;

"(xv) a member of the Senior Foreign Service; or".

Sec. 2305. Severance Pay.—Section 5595(a)(2)(vi) of title 5, United States Code, is amended by inserting after "to receive" the following: "benefits under section 609(b)(1) of the Foreign Service Act of 1980 or any".

Sec. 2306. Attorneys Fees in Backpay Cases.—Section 5596(b) of title 5, United States Code, is amended—

(1) in paragraph (1)(A)(ii) by inserting "or under chapter 11 of title I of the Foreign Service Act of 1980," immediately after "chapter 71 of this title,"; and

(2) in paragraph (3)—

(A) by inserting "and (with respect to members of the Foreign Service) in sections 1101 and 1002 of the Foreign Service Act of 1980" immediately after "section 7103 of this title"; and

(B) by inserting "and (with respect to members of the Foreign Service) in section 1015 of the Foreign Service Act of 1980" immediately after "section 7116 of this title".

Sec. 2307. Separate Maintenance Allowance.—Section 5924(3) of title 5, United States Code, is amended—

(1) by inserting "or authorized" immediately after "compelled"; and

(2) by inserting "or who requests such an allowance because of special needs or hardship involving the employee or the employee's spouse or dependents," immediately after "for the convenience of the Government,".

Sec. 2308. Education Allowance.—Section 5924(4)(B) of title 5, United States Code, is amended by striking out "(i)" and all that follows through "each type of education" and inserting in lieu thereof "one annual trip each way for each dependent".

Sec. 2309. Posts Requiring Special Incentives.—Section 5925 of title 5, United States Code, is amended—

(1) by striking out "A post" in the first sentence and inserting in lieu thereof "(a) A post";

(2) by inserting "under this subsection" immediately after "differential" in the last sentence; and

(3) by adding at the end thereof the following new subsection:

"(b) Any employee granted a differential under subsection (a) of this section may be granted an additional differential for an assignment to a post determined to have especially adverse conditions of environment which warrant additional pay as a recruitment and retention incentive for the filling of positions at that post. An additional differential for any employee under this subsection—

"(1) may be paid for each assignment to a post determined to have such conditions;

"(2) may be paid periodically or in a lump sum; and

"(3) may not exceed 15 percent of the rate of basic pay of that employee for the period served under that assignment.".

Sec. 2310. Advances of Pay.—(a) Subchapter III of chapter 59 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 5927. Advances of pay

"Up to three month's pay may be paid in advance to an employee upon the assignment of the employee to a post in a foreign area.".

(b) The analysis of chapter 59 of title 5, United States Code, is amended by inserting after the item relating to section 5926 the following:

"5927. Advances of pay.".

Sec. 2311. Danger Pay Allowance.—Subchapter III of chapter 59 of title 5, United States Code, as amended by section 2301(a), is further amended by adding at the end thereof the following new section:

"§ 5928. Danger pay allowance

"An employee serving in a foreign area may be granted a danger pay allowance on the basis of civil insurrection, civil war, terrorism, or wartime conditions which threaten physical harm or imminent danger to the health or well-being of the employee. A danger pay allowance may not exceed 25 percent of the basic pay of the employee, except that if an employee is granted an additional differential under section 5925(b) of this title with respect to an assignment, the sum of that additional differential and any danger pay allowance granted to the employee with respect to that assignment may not exceed 25 percent of the basic pay of the employee.".

(b) The analysis for chapter 59 of title 5, United States Code, as amended by section 2301(b), is further amended by inserting after the item relating to section 5927 the following:

"5928. Danger pay allowance.".

Sec. 2312. Leave.—(a) Section 6301 of title 5, United States Code, is amended by adding at the end thereof the following new sentence: "Notwithstanding clauses (x)-(xii) of paragraph (2), the term 'employee' includes any member of the Senior Foreign Service or any Foreign Service officer (other than a member or officer serving as chief of mission or in a position which requires appointment by and with the advice and consent of the Senate) and any member of the Foreign Service commissioned as a diplomatic or consular officer, or both, under section 321 of the Foreign Service Act of 1980.".

(b) Section 6304 of title 5, United States Code, is amended—

(1) in subsection (a) by striking out "and (f)" and inserting in lieu thereof "(f), and (g)"; and

(2) by adding at the end thereof the following new subsection:

"(g) Annual leave accrued by a member of the Senior Foreign Service shall not be subject to the limitation on accumulation otherwise imposed by this section.".

(c) Section 6305(a) of title 5, United States Code, is amended by inserting immediately after "States" in the first sentence "(or after a shorter period of such service if the employee's assignment is terminated for the convenience of the Government)".

Sec. 2313. Retirement Credit for Imprisoned Foreign Nationals and for Service With Certain Overseas Broadcasting Organizations.—(a) Section 8332(b) of title 5, United States Code, is amended by striking out "and" at the end of paragraph (8), by striking out the period at the end of paragraph (9) and inserting in lieu thereof a semicolon, and by inserting immediately after paragraph (9) the following new paragraphs:

> "(10) periods of imprisonment of a foreign national for which compensation is provided under section 410 of the Foreign Service Act of 1980, if the individual (A) was subject to this subchapter during employment with the Government last preceding imprisonment, or (B) is qualified for an annuity under this subchapter on the basis of other service of the individual; and
>
> "(11) subject to sections 8334(c) and 8339(i) of this title, service in any capacity of at least 130 days (or its equivalent) per calendar year performed after July 1, 1946, for the National Committee for a Free Europe; Free Europe Committee, Incorporated; Free Europe, Incorporated; Radio Liberation Committee; Radio Liberty Committee; subdivisions of any of those organizations; Radio Free Europe/Radio Liberty, Incorporated, Radio Free Asia; the Asia Foundation; or the Armed Forces Network, Europe (AFN-E), but only if such service is not credited for benefits under any other retirement system which is established for such entities and funded in whole or in part by the Government and only if the individual later becomes subject to this subchapter.".

(b) Such section 8332(b) is further amended by adding at the end thereof the following new sentence: "The Office of Personnel Management shall accept the certification of the Executive Director of the Board for International Broadcasting concerning services for the purposes of this subchapter of the type described in paragraph (11) of this subsection.".

Sec. 2314. Conforming Amendments to Title 5.—(a) Section 3323(c) of title 5, United States Code, is amended by striking out "Foreign Service officer retired under section 1001 or 1002 of title 22 or a Foreign Service Staff officer or employee retired under section 1063 of title 22" and inserting in lieu thereof "member of the Foreign Service retired under section 812 of the Foreign Service Act of 1980".

(b) Section 5102(c)(2) of title 5, United States Code, is amended by striking out "employees in the Foreign Service of the United States whose pay is fixed under chapter 14 of title 22" and insert in lieu thereof "members of the Foreign Service whose pay is fixed under the Foreign Service Act of 1980".

(c)(1) Section 5301(c)(2) of title 5, United States Code, is amended by striking out "subchapter IV of chapter 14 of title 22" and inserting in lieu thereof "section 403 of the Foreign Service Act of 1980".

(2) Section 5303(a)(4) of title 5, United States Code, is amended by striking out "sections 867 and 870 of title 22" and inserting in lieu thereof "section 403 of the Foreign Service Act of 1980".

(3) Section 5304 of title 5, United States Code, is amended by striking out "chapter 14 of title 22" and inserting in lieu thereof "the Foreign Service Act of 1980".

(d) Section 5724(g) of title 5, United States Code, is amended by striking out "chapter 14 of title 22" and inserting in lieu thereof "the Foreign Service Act of 1980".

(e) Section 5727(e)(2) of title 5, United States Code, is amended to read as follows:

"(2) This section, except subsection (a), does not affect section 403e(4) of title 50.".

(f)(1) Section 6301(2)(xii) of title 5, United States Code, is amended by striking out "an officer who receives pay under section 866 of title 22" and inserting in lieu thereof "a chief of mission (as defined in section 102(a)(3) of the Foreign Service Act of 1980)".

(2) Section 6305(b) of title 5, United States Code, is amended by striking out "an officer" and inserting in lieu thereof "a chief of mission".

(g) Section 7103(a)(2)(iv) of title 5, United States Code, is amended by striking out "the Agency for International Development, or" and inserting before the semicolon ", the United States International Development Cooperation Agency, the Department of Agriculture, or the Department of Commerce".

(h) Section 8501(1)(C) of title 5, United States Code, is amended by striking out "Foreign Service personnel for whom special separation allowances are provided under chapter 14 of title 22" and inserting in lieu thereof "members of the Foreign Service for whom payments are provided under section 609(b)(1) of the Foreign Service Act of 1980".

CHAPTER 4—SAVING PROVISIONS, CONGRESSIONAL OVERSIGHT, AND EFFECTIVE DATE

Sec. 2401.[198] **Saving Provisions.**—(a) All determinations, authorizations, regulations, orders, agreements, exclusive recognition of an organization or other actions made, issued, undertaken, entered into or taken under the authority of the Foreign Service Act of 1946 or any other law repealed, modified, or affected by this Act shall continue in full force and effect until modified, revoked, or superseded by appropriate authority. Any grievances, claims, or appeals which were filed or made under any such law and are pending resolution on the effective date of this Act shall continue to be governed by the provisions repealed, modified, or affected by this Act.

(b) This Act shall not affect any increase in annuity or other right to benefits, which was provided by any provision amended or repealed by this Act, with respect to any individual who became entitled to such benefit prior to the effective date of this Act.

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[198] 22 U.S.C. 4172.

(c) References in law to provisions of the Foreign Service Act of 1946 or other law superseded by this Act shall be deemed to include reference to the corresponding provisions of this Act.

Sec. 2402. Congressional Oversight of Implementation.—

(a) [199] * * * [Repealed—1987]

(b) [199] * * * [Repealed—1987]

(c) The Secretary shall consult, in accordance with the procedures set out in section 1013(g), with the exclusive representative (if any) of members of the Foreign Service in each agency specified in section 1003(a) with respect to steps to be taken in implementing this Act and reported under section 601(c)(4).[200] To that end, each such exclusive representative will have timely access to all relevant information at each stage. Each such report shall include the views of each such exclusive representative on any and all aspects of the report and the information contained in such report.

Sec. 2403.[201] Effective Date.—(a) Except as otherwise provided, this Act shall take effect on February 15, 1981.

(b) Personnel actions may be taken on and after the effective date of this Act on the basis of any then current Foreign Service evaluation cycle as if this Act had been in effect at the beginning of that cycle.

(c) [201] * * * [Repealed—1985]

(d)(1) Section 812 of this Act, and the repeal of sections 631 and 632 of the Foreign Service Act of 1946 and section 625(k) of the Foreign Assistance Act of 1961, shall be effective as of the date of enactment of this Act.

(2) For purposes of implementing section 2101, sections 402(a) and 403 shall be effective as of the date of enactment of this Act.

(e)(1) The provisions of chapter 8 of title I regarding the rights of former spouses to any annuity under section 814(a) shall apply in the case of any individual who after the effective date of this Act becomes a former spouse of an individual who separates from the Service after such date.

(2) Except to the extent provided in section 2109, the provisions of such chapter regarding the rights of former spouses to receive survivor annuities under chapter 8 shall apply in the case of any individual who after the effective date of this Act becomes a former spouse of a participant or former participant in the Foreign Service Retirement and Disability System.

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[199] Sec. 2402(a) and (b) were repealed by sec.185(c)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204, 101 Stat. 1366). Subsec. (a) required the Secretary of State to submit a report to the Congress by February 1, 1982, describing the implementation of the Foreign Service Act during the fiscal year 1981. Subsec. (b) required the Secretary of State to submit thereafter an annual report.

[200] Sec. 185(c)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204, 101 Stat. 1366) substituted the words "section 601(c)(4)" in lieu of "this section".

[201] 22 U.S.C. 3901 note. Section 2403(c) was repealed effective October 1, 1985 by sec. 119(b) Public Law 99-93 (99 Stat. 405).

The repealed provision read as follows:

"(c) Appointments to the Senior Foreign Service by the Secretary of Commerce shall be excluded in the calculation and application of the limitation in section 305(b) until October 1, 1985. Prior to that date, the number of members serving in the Senior Foreign Service under limited appointments by the Secretary of Commerce may not exceed 10 at any one time (excluding individuals with reemployment rights under section 310 as career appointees in the Senior Executive Service)."

b. Strengthening the Organization and Administration of the Department of State

Public Law 81-73 [S. 1704], 63 Stat. 111, 22 U.S.C. 2652 et seq., approved May 26, 1949, as amended by Public Law 84-250 [S. 2237], 69 Stat. 536, approved August 5, 1955; Public Law 85-477 [H.R. 12181], 72 Stat. 274, approved June 30, 1958; Public Law 85-524 [S. 1832], 72 Stat. 363, approved July 18, 1958; Public Law 86-117 [S. 1877], 73 Stat. 265, approved July 30, 1959; Public Law 88-426 [H.R. 11049], 78 Stat. 424, approved August 14, 1964; Public Law 92-352 [H.R. 14734], 86 Stat. 489, approved July 13, 1972; Public Law 95-105 [H.R. 6689], 91 Stat. 844 at 847, approved August 17, 1977; Public Law 95-426 [Foreign Relations Authorization Act, Fiscal Year 1979; H.R. 12598], 92 Stat. 963 at 968, approved October 7, 1978; Public Law 98-164 [Department of State Authorization Act, Fiscal Years 1984 and 1985; H.R. 2915], 97 Stat. 1017, approved November 22, 1983; Public Law 99-93 [H.R. 2068], 99 Stat. 405, approved August 16, 1985; and by Public Law 99-399 [Omnibus Diplomatic Security and Antiterrorism Act of 1986, H.R. 4151], 100 Stat. 856, approved August 27, 1986

AN ACT To strengthen and improve the organization and administration of the Department of State, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be in the Department of State in addition to the Secretary of State, a Deputy Secretary of State, an Under Secretary of State for Political Affairs, an Under Secretary of State for Economic and Cultural Affairs, an Under Secretary of State for Management and fifteen Assistant Secretaries of State.[1]

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[1] 22 U.S.C. 2652. Public Law 81-73 provided for a Secretary of State, an Under Secretary of State, and ten Assistant Secretaries, two of which might be designated as Deputy Under Secretaries. Public Law 83-2 (67 Stat. 4) provided for an Under Secretary of State for Administration at $17,500 until December 31, 1954. Public Law 84-250 provided for a Secretary of State, an Under Secretary of State, three Deputy Under Secretaries of State, and ten Assistant Secretaries of State. The designated number of Deputy Under Secretaries of State was changed to two by sec. 502(j)(1) of Public Law 85-477, and the number of Assistant Secretaries was increased from ten to eleven by Public Law 85-524. Sec. 109(c) of Public Law 95-105 increased the number of Assistant Secretaries from eleven to thirteen (one of the offices of Assistant Secretary of State was abolished pursuant to sec. 9(a)(2) of Reorganization Plan No. 2 of 1977). Secs. 115(a) and 116(a) of Public Law 99-93 (99 Stat. 405) increased the number of Assistant Secretaries from thirteen to fourteen and renamed the position of the Under Secretary of State for Economic Affairs the "Under Secretary of State for Economic and Cultural Affairs". Sec. 104(b) of Public Law 99-399 (100 Stat 856) increased the number of Assistant Secretaries of State from fourteen to fifteen. Sec. 403 of the Foreign Assistance Act of 1971 (Public Law 92-226) established an Under Secretary of State for Coordinating Security Assistance Programs. Sec. 103(a)(1) of Public Law 92-352 established a Deputy Secretary of State, an Under Secretary of State for Political Affairs, an Under Secretary of State for Economic Affairs, and a Deputy Under Secretary of State replacing an Under Secretary of State and two Deputy Under Secretaries of State. Sec. 103(b) also provided that: "The duties of the Under Secretary of State are transferred to the Deputy Secretary of State. The individual holding, on the date of enactment of this Act, the office of the Under Secretary of State may assume the duties of the Deputy Secretary of State. The individual assuming such duties shall not be required to be reappointed by reason of the enactment of this section." Sec. 114(a)(1) of Public Law 95-426 (92 Stat. 968) established an Under Secretary of State for Management, replacing the Deputy Under Secretary of State with this position and made the appropriate changes in this section, effective October 1, 1978. Such sec. 114(a) also provided: "The individual holding the office of Deputy Under Secretary of State

Continued

Sec. 2.[2] (a) The Secretary of State and the officers referred to in section 1 of this Act, as amended, shall be appointed by the President, by and with the advice and consent of the Senate. The Legal Adviser [3] who is required to be appointed by the President, by and with the advice and consent of the Senate, shall rank equally with the Assistant Secretaries of State. Any such officer holding office at the time the provisions of this Act, as amended, become effective shall not be required to be reappointed by reason of the enactment of this Act, as amended.

(b)[4] * * *

Sec. 3.[5] The Secretary of State, or such person or persons designated by him, notwithstanding the provisions of the Foreign Service Act of 1946 (60 Stat. 999) or any other law, except where authority is inherent in or vested in the President of the United States, shall administer, coordinate, and direct the Foreign Service of the United States and the personnel of the State Department. Any provisions in the Foreign Service Act of 1946, or in any other law, vesting authority in the "Assistant Secretary of State for Administration", the "Assistant Secretary of State in Charge of the Administration of the Department", the "Director General", or any

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on the effective date of this section shall assume the duties of Under Secretary of State for Management and shall not be required to be reappointed by reason of the enactment of this section."

Sec. 9 of Public Law 93-126 established within the Department of State a Bureau of Oceans and International Environmental and Scientific Affairs, providing for an Assistant Secretary of State to head the Bureau.

Sec. 104(b) of the Act of June 27, 1952 (66 Stat. 174), established a Bureau of Security and Consular Affairs, headed by an administrator with rank equal to that of an Assistant Secretary of State. Sec. 109(b) of Public Law 95-105 renamed the Bureau as the Bureau for Consular Affairs and redesignated the administrator of such Bureau as the Assistant Secretary of State for Consular Affairs.

Sec. 624(e) of Public Law 87-195, as amended, provided for an officer in the Department of State with the title of Inspector General, Foreign Assistance.

Sec. 301(b) of Public Law 94-329 (90 Stat. 750) established within the Department of State a Coordinator for Human Rights and Humanitarian Affairs to be responsible for matters "pertaining to human rights and humanitarian affairs * * * in the conduct of foreign policy." Sec. 109(a) of Public Law 95-105 redesignated such Coordinator as an Assistant Secretary of State for Human Rights and Humanitarian Affairs.

Sec. 115 of Public Law 95-426 (92 Stat. 969) established an Assistant Secretary of State for International Narcotics Matters, effective October 1, 1978, to "be responsible for the overall coordination of the role of the Department of State in the international aspects of narcotics problems."

There is also in the Department of State a Policy Planning Staff, a Bureau of Politico-Military Affairs, and a Bureau of Intelligence and Research, all of which are headed by Directors.

See also the organizational chart of the Department of State in the *United States Government Manual*, 1985-86.

[2] 22 U.S.C. 2653. The original text of sec. 2 was designated as subsec. (a) and a new subsec. (b) was added by sec. 502(j)(2) of Public Law 85-477. The words "and shall receive the same salary as" in the second sentence and the last sentence as added by Public Law 84-250, reading "Unless otherwise provided for by law, the rate of basic compensation of the Deputy Under Secretaries of State shall be the same as that of Assistant Secretaries of State", were deleted by sec. 305(14) of Public Law 88-426.

[3] Sec. 125 of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98-164, 97 Stat. 1026) deleted a reference to the Counselor of the Department of State which previously appeared at this point.

[4] Subsec. (b) as amended by Public Law 86-117 (73 Stat. 265) and Public Law 88-426, was repealed by sec. 103(a)(2) of Public Law 92-352. It formerly read: "There is established in the Department of State an Office which shall be entitled as designated by the President, either Under Secretary of State for Political Affairs or Under Secretary of State for Economic Affairs, which Office shall be filled by appointment by the President, by and with the advice and consent of the Senate. The incumbent of such Office shall perform such duties as may be prescribed by the Secretary of State. Any provision of law vesting authority in the 'Under Secretary of State for Economic Affairs,' or any other reference with respect thereto, is hereby amended to vest such authority in the Secretary of State." Refer to 22 U.S.C. 2653.

[5] 22 U.S.C. 811a.

other reference with respect thereto, are hereby amended to vest such authority in the Secretary of State.

Sec. 4.[6] The Secretary of State may promulgate such rules and regulations as may be necessary to carry out the functions now or hereafter vested in the Secretary of State or the Department of State, and he may delegate authority to perform any of such functions, including if he shall so specify the authority successively to redelegate any of such functions,[7] to officers and employees under his direction and supervision.

Sec. 5. The following statutes or parts of statutes are hereby repealed:

Section 200 of the Revised Statutes, as amended and amplified by the Acts authorizing the establishment of additional Assistant Secretaries of State, including section 22 of the Act of May 24, 1924 (ch. 182, and the Act of December 8, 1944, R.S. 200; 43 Stat. 146; 58 Stat. 798; 5 U.S.C. 152, as amended by Public Law 767, Eightieth Congress).

Section 202 of the Foreign Service Act of 1946 (60 Stat. 1000) and any other reference in such Act to the "Deputy Director General".

Section 1041 of the Foreign Service Act of 1946 (60 Stat. 1032).

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[6] 22 U.S.C. 2658.

[7] The phrase ", including if he shall so specify the authority successfully to redelegate any of such functions," was added by sec. 11(a) of Public Law 84-726 (70 Stat. 563).

c. Executive Order 12293, February 23, 1981, 46 F.R. 13969 as amended by Executive Order 12363, May 21, 1982, 47 F.R. 22497; Executive Order 12388, October 14, 1982, 47 F.R. 46245; and by Executive Order 12536, October 9, 1985, 50 F.R. 41477

THE FOREIGN SERVICE OF THE UNITED STATES

By the authority vested in me as President by the Constitution and laws of the United States of America, including the Foreign Service Act of 1980 (94 Stat. 2071, 22 U.S.C. 3901 *et seq.*), Section 202 of the Revised Statutes (22 U.S.C. 2656), and Section 301 of Title 3 of the United States Code, and in order to provide for the administration of the Foreign Service of the United States, it is hereby ordered as follows:

Section 1. There are hereby delegated to the Secretary of State those functions vested in the President by Sections 205, 401(a), 502(c), 613, and 801 of the Foreign Service Act of 1980, hereinafter referred to as the Act (22 U.S.C. 3925, 3942(a)(1), 3892(c), 4013, and 4041).

Sec. 2. The Secretary of State shall, in accord with Section 205 of the Act (22 U.S.C. 3925), consult with the Secretary of Agriculture, the Secretary of Commerce, the Director of the United States Information Agency,[1] the Director of the United States International Development Corporation Agency, the Director of the Office of Personnel Management, and the Director of the Office of Management and Budget, in order to ensure compatibility between the Foreign Service personnel system and other government personnel systems.

Sec. 3. The Secretary of State shall make recommendations to the President through the Director of the Office of Management and Budget whenever action is appropriate under Section 827 of the Act (22 U.S.C. 4067) to maintain existing conformity between the Civil Service Retirement and Disability System and the Foreign Service Retirement and Disability System.

Sec. 4. In accord with Section 402 of the Act (22 U.S.C. 3962), there are established the following salary classes with titles for the Senior Foreign Service (SFS), at basic rates of pay equivalent to that established from time to time for the Senior Executive Service (ES) under Section 5382 of Title 5 of the United States Code.

Career Minister

(a) Basic rate of pay equivalent to ES 6.

Minister-Counselor

(a) Basic rate of pay equivalent to ES 6, or
(b) Basic rate of pay equivalent to ES 5, or

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[1] The reference to the United States Information Agency was substituted in lieu of a reference to the International Communication Agency by sec. 4 of Executive Order 12388.

(c) Basic rate of pay equivalent to ES 4.

Counselor

(a) Basic rate of pay equivalent to ES 6, or
(b) Basic rate of pay equivalent to ES 5, or
(c) Basic rate of pay equivalent to ES 4, or
(d) Basic rate of pay equivalent to ES 3, or
(e) Basic rate of pay equivalent to ES 2, or
(f) Basic rate of pay equivalent to ES 1.

Sec. 5. There is hereby delegated to the Secretary of State, without further action by the President, the authority vested in the President by Section 2107 of the Act to the extent necessary to implement the provisions of Section 2101 of the Act, relating to pay and benefits pending conversion.

Sec. 6. (a) Pursuant to Section 211 of the Act (22 U.S.C. 3931), there is established in the Department of State the Board of Examiners for the Foreign Service.

(b) The Board shall be appointed by, and in accordance with regulations prescribed by, the Secretary of State, except that not less than five shall be career members of the Foreign Service and not less than seven shall be appointed as follows:

(1) not less than five shall be appointed by the heads of the agencies utilizing the Foreign Service personnel system;

(2) not less than one shall be a representative appointed by the Director of the Office of Personnel Management; and

(3) not less than one shall be a representative appointed by the Secretary of Labor.

(c) The Secretary of State shall designate from among the members of the Board a Chairman who is a member of the Service.

(d) The Secretary of State shall provide all necessary administrative services and facilities for the Board.

Sec. 7. For the purpose of ensuring the accuracy of information used in the administration of the Foreign Service Retirement and Disability System, the Secretary of State may request from the Secretary of Defense and the Administrator of Veterans Affairs such information as the Secretary deems necessary. To the extent permitted by law: (a) The Secretary of Defense shall provide information on retired or retainer pay provided under Title 10, United States Code; and, (b) the Administrator of Veterans Affairs shall provide information on pensions or compensation provided under Title 38 of the United States Code. The Secretary, in consultation with the officials from whom information is requested, shall ensure that information made available under this Order is used only for the purpose authorized.

Sec. 8. The first seven Sections of this Order shall be effective as of February 15, 1981.

Sec. 9.[2] (a) Pursuant to Section 210 of the Act there is established in the Department of State the Board of the Foreign Service (22 U.S.C. 3930).

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[2] Secs. 9 and 10 were added by Executive Order 12363. Executive Order 12536 revoked sec. 9(e) and redesignated sec. 9(j) as 9(e). Sec. 9(e) previously read as follows:

"(e) The Secretary of State shall designate a Chairman of the Board from among those members who are career members of the Senior Foreign Service."

(b) The Board shall be composed of the designated number of representatives of the heads of the following agencies:

(1) Department of State, four members, at least three of whom must be career members of the Senior Foreign Service;

(2) United States Information Agency,[3] two members, one of whom must be a career member of the Senior Foreign Service;

(3) United States International Development Cooperation Agency, two members, one of whom must be a career member of the Senior Foreign Service;

(4) Department of Agriculture, two members, one of whom must be a career member of the Senior Foreign Service;

(5) Department of Commerce, two members, one of whom must be a career member of the Senior Foreign Service;

(6) Department of Labor, one member;

(7) Office of Personnel Management, one member;

(8) Office of Management and Budget, one member; and,

(9) Equal Employment Opportunity Commission, one member;

(c) The membership of the Board shall be selected from among officials who are knowledgeable in matters concerning the management of the Foreign Service. Except for the career members of the Senior Foreign Service from the Department of Agriculture, the Department of Commerce, the United States Information Agency,[3] and the United States International Development Cooperation Agency, the members of the Board shall be selected from among those who have the rank of Assistant Secretary or higher or a position of comparable responsibility.

(d) The Secretary of State may from time to time request the heads of other agencies to designate representatives to participate in the functions of the Board on a regular or occasional basis.

(e) The Secretary of State shall provide all necessary administrative services and facilities for the Board.

Sec. 10.[3] Pursuant to section 202(a)(2)(B) and (a)(3)(B) of the Act (22 U.S.C. 3922(a)(2)(B), (a)(3)(B)), it is hereby determined to be necessary, in order to enable the Department of Agriculture and the Department of Commerce to carry out functions which require service abroad, for the respective Secretaries, in consultation with the Office of Personnel Management and the Office of Management and Budget, to be able to utilize the Foreign Service personnel system with respect to personnel of the following:

(a) The Animal and Plant Health Inspection Service of the Department of Agriculture, not to exceed 125 positions, without the prior approval of the Director of the Office of Personnel Management;

(b) The United States Travel and Tourism Administration, and the International Trade Administration of the Department of Commerce, not to exceed 30 positions without the prior approval of the Director of the Office of Personnel Management, and providing that assignments to such positions be administered consistent with policies of the Foreign Commercial Service established under Executive Order No. 12188.

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[3] The reference to the United States Information Agency was substituted in lieu of a reference to the International Communication Agency by sec. 5 of Executive Order 12388.

d. Executive Order 12343, January 27, 1982, 47 F.R. 4225

DESIGNATION OF CERTAIN OFFICERS TO ACT AS SECRETARY OF STATE

By the authority vested in me as President of the United States of America by Section 3347 of Title 5 and Section 301 of Title 3 of the United States Code, it is hereby ordered as follows:

Section 1. During any period when, by reason of absence, disability, or vacancy in office, neither the Secretary of State nor the Deputy Secretary of State, is available to exercise the powers or perform the duties of the Office of the Secretary, an officer from the Department of State who has been appointed by the President, by and with the advice and consent of the Senate, in such order as the Secretary of State may from time to time prescribe, shall act as Secretary. If no such order of succession is in effect at that time, then such officers shall act as Secretary in descending order of rank, as established by the listing of their offices in Sections 5314 or 5315 of Title 5 of the United States Code, and at each level of the Executive Schedule in the order in which they shall have taken the oath as such officers.

Sec. 2. The President may at any time, pursuant to law but without regard to the foregoing provisions of this Order, direct that an officer specified by the President shall act as Secretary of State.

Sec. 3. Executive Order No. 10839 is revoked.

e. Foreign Service Retirement Amendments of 1976

Partial text of Public Law 94-350 [Foreign Relations Authorization Act, Fiscal Year 1977; S. 3168], 90 Stat. 834, approved July 12, 1976; as amended by Public Law 96-465 [Foreign Service Act of 1980, H.R. 6790], 94 Stat. 2071 at 2160, approved October 17, 1980

AN ACT To authorize fiscal year 1977 appropriations for the Department of State, the United States Information Agency, and the Board for International Broadcasting, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Foreign Relations Authorization Act, Fiscal Year 1977".

NOTE.—See also title I, chapter 8 of the Foreign Service Act of 1980 (page 305) for additional legislation concerning the Foreign Service Retirement and Disability System. Sections within title V of this Act which have not been reproduced here are amendments to the Foreign Service Act of 1946, an Act which was repealed and replaced by the Foreign Service Act of 1980.

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TITLE V—FOREIGN SERVICE RETIREMENT

SHORT TITLE

Sec. 500. This title may be cited as the "Foreign Service Retirement Amendments of 1976".

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CONVERSION TO FOREIGN SERVICE RETIREMENT SYSTEM

Sec. 522.[1] * * * [Repealed—1981]

GRANTS TO CERTAIN WIDOWS AND SURVIVOR ANNUITY ELECTIONS

Sec. 523.[2] (a) A Foreign Service annuitant who was married at the time of retirement, whose service terminated prior to October 16, 1960, and who has not elected any survivor benefit, may, within one hundred and twenty days after the effective date of this title, elect a reduction in his or her annuity of $300 per annum and provide a survivor benefit of $2,400 per annum payable to the annuitant's surviving spouse provided the marriage had been in effect for at least two years at the time of death or resulted in the birth of a child. The survivor annuity shall be treated in all respects as if it had been elected under section 821(b) of the Foreign Service Act of 1946,[3] as amended by this title.

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[1] Sec. 522 was repealed by sec. 2205(4) of the Foreign Service Act of 1980 (Public Law 96-465, 94 Stat. 2160).

[2] 22 U.S.C. 1076 note.

(b) An annuitant who makes an election under subsection (a) of this section shall pay into the Foreign Service Retirement and Disability Fund an amount equal to $25 times the number of full months between the commencing date of his or her annuity and the first of the month following receipt of notice of election by the Secretary of State. This amount may be paid into such Fund by deduction from annuity in multiples of $25 per month. The annuity reduction under subsection (a) of this section and the deduction under this subsection shall commence effective the first of the month following receipt of notice of the election by the Secretary of State. The deduction under this subsection shall continue until the required amount has been paid into such Fund or until the annuitant's death, whichever occurs first; and if the latter, any remaining portion of such required amount shall be deemed to have been paid.

(c) If a Foreign Service annuitant who separated from the Foreign Service prior to October 16, 1960, died before the effective date of this title, or dies within one hundred and twenty days after such effective date leaving a spouse to whom married at retirement who is not entitled to receive a survivor annuity under the terms of section 8133 of title 5, United States Code, or any law authorizing payment from the Foreign Service Retirement and Disability Fund and who qualifies under section 821(h) of the Foreign Service Act of 1946,[3] as amended by this title, the Secretary of State shall grant such surviving spouse, if not remarried prior to age sixty, an annuity, to be payable from such Fund in the amount of $2,400 per annum adjusted by all cost-of-living increases received by widows granted annuities under section 4 of the Act of October 31, 1965 (79 Stat. 1130). An annuity to a surviving spouse who remarried prior to age sixty may be initiated or resumed under this subsection in accordance with the provisions of subsections (b) and (h) of section 821 of the Foreign Service Act of 1946,[3] as amended by this title, if such remarriage has terminated or terminates in the future.

EFFECTIVE DATES

Sec. 524. (a) Unless otherwise specified, this title shall be effective upon enactment or on October 1, 1976, whichever is later.

(b) Section 522 of this title and sections 803 and 881 of the Foreign Service Act of 1946, as amended by this title,[3] shall be effective on the first day of the first pay period which begins more than ninety days after the effective date of this title.

(c) Effective on the last day of the first month which ends after the effective date of this title, all Foreign Service survivor annuities, including those then in effect, shall terminate on the last day of a month in accordance with the provisions of subsections (b)(2)(B), (e), and (f) of section 821 of the Foreign Service Act of 1946, as amended by this title.[3]

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[3] Such section was repealed and replaced by the Foreign Service Act of 1980 (Public Law 96-465). Sec. 2401(c) of such Act specified that any references in other Acts to the Foreign Service Act of 1946 would be deemed to be a reference to the corresponding provision of the Foreign Service Act of 1980.

(d) The amendment of section 804 of the Foreign Service Act of 1946 [3] made by this title broadening eligibility for children's survivor annuities shall apply to all surviving children regardless of the date of death of the principal.

(e) Subsection (g) of section 821 of the Foreign Service Act of 1946, as added by this title,[3] shall apply to both present and future Foreign Service annuitants. Any annuitant unmarried at retirement who married after retirement but prior to the effective date of this title may make an election under such subsection (g) if notice of the election is received by the Secretary of State within one year after such effective date.

(f) If an annuitant dies on or after January 8, 1971, who, prior to the effective date of this title, elected a reduced annuity with a benefit to a surviving spouse, and is survived by a spouse acquired after such election who qualifies under section 804(2) of the Foreign Service Act of 1946, as amended by this title,[3] such surviving spouse shall be entitled to an annuity computed under the law in effect at the time of such election and in accordance with all other applicable statutes. Such an annuity shall be treated in all other respects in the same manner as an annuity payable under section 821(b) of the Foreign Service Act of 1946, as amended by this title.[3] For purposes of section 882(c)(2) of the Foreign Service Act of 1946, as amended by this title,[3] the death of an annuitant who has died before the effective date of this title shall be deemed to have occurred on such effective date.

(g) The restrictions on payment of survivor annuities in subsection (b)(2)(A) and subsection (h) of section 821 of such Act [3] shall not apply to a supplemental survivor annuity provided under subsection (i) of section 821 or subsection (f) of section 832 of such Act [3] if the restrictions do not apply to a basic survivor annuity elected prior to commencement of the recall service.

(h) Subsection (a) of section 822 of the Foreign Service Act of 1946,[3] as added by this title,[3] shall be effective on the first day of the first month which begins on or after the effective date of this title.

(i) Subsection (a) of section 841 of the Foreign Service Act of 1946, as amended by this title,[3] shall not apply to participants separated from the Foreign Service prior to the effective date of this title nor to their survivors. All payments from the Foreign Service Retirement Fund that become due on and after such effective date shall be paid in the order of precedence specified in such section 841 irrespective of the date of separation.

(j) Subsection (c) of section 851 of the Foreign Service Act of 1946, as added by this title,[3] shall be effective on the first day of the first pay period that begins more than thirty days after the effective date of this title. A participant who is on approved leave without pay and is serving as a full-time officer or employee of an organization composed primarily of Government employees on the effective date of such section shall have sixty days from such date to file an election under subsection (c) of said section 851.

(k) Subsection (f) of section 851 of the Foreign Service Act of 1946, as added by this title,[3] shall apply, in addition to present participants, to former participants who separated from the Foreign Service to enter the Armed Forces within the five-year period immediately preceding the effective date of this title and who are members of the Armed Forces on such date.

(l) The annuity of a survivor who becomes immediately eligible for an annuity under subsection (c) of section 523 of this title or subsection (d) or (f) of this section shall become effective the first day of the first month which begins on or after the effective date of this title. However, payment shall be made only after receipt by the Department of State of such application for annuity and such proof of eligibility as the Secretary may require. If such application and proof of eligibility are not submitted during an otherwise eligible person's lifetime, no annuity shall be due or payable to his or her estate.

(m) The amendment of subsections (a) and (b) of section 882 of the Foreign Service Act of 1946 [3] made by this title shall be effective on the fifteenth day of the third month which begins after the effective date of this title.

(n) Annuities which commenced between—

(A) the effective date of the last cost-of-living increase which became effective under section 882 of the Foreign Service Act of 1946 [3] prior to the effective date of this title, and

(B) such effective date,

shall be recomputed and, if necessary, adjusted retroactively to their commencing dates to apply the provisions of new subsections (c)(1) of section 882 of the Foreign Service Act of 1946, as added by section 515 of this title.[3]

(o) Any Foreign Service officer who is or becomes a career minister and who is not occupying a position to which appointed by the President, by and with the advice and consent of the Senate, shall be mandatorily retired for age in accordance with the schedule below and receive benefits under section 821 of the Foreign Service Act of 1946,[3] unless the Secretary determines it to be in the public interest to extend such officer's service for a period not to exceed five years:

RETIREMENT SCHEDULE

(1) Any career minister who reaches age sixty-five during the month this title becomes effective shall be retired at the end of such month.

(2) Other career ministers who are age sixty or over on such effective date shall be retired at the end of the month which contains the midpoint between the last day of the month of such effective date and the last day of the month during which the officer would reach age sixty-five, counting thirty days to the month.

(3) On the last day of the thirtieth month which ends after such effective date, all other career ministers who are age sixty or over

the above schedule shall be retired at the end of the month in which the officer completes such service.

shall be retired, and thereafter the amendments made by sections 518 and 519 shall be applicable in all cases.

(4) Any career minister who completes a period of authorized service after he reaches mandatory retirement age as provided in

f. Interdepartmental Operations of the U.S. Government Overseas

(1) Foreign Intelligence Surveillance

Title 50, United States Code—War and National Defense

CHAPTER 36—FOREIGN INTELLIGENCE SURVEILLANCE

§ 1801. Definitions

As used in this chapter:

(a) "Foreign power" means—

(1) a foreign government or any component thereof, whether or not recognized by the United States;

(2) a faction of a foreign nation or nations, not substantially composed of United States persons;

(3) an entity that is openly acknowledged by a foreign government or governments to be directed and controlled by such foreign government or governments;

(4) a group engaged in international terrorism [1] or activities in preparation therefor;

(5) a foreign-based political organization, not substantially composed of United States persons; or

(6) an entity that is directed and controlled by a foreign government or governments.

(b) "Agent of a foreign power" means—

(1) any person other than a United States person, who—

(A) acts in the United States as an officer or employee of a foreign power, or as a member of a foreign power as defined in subsection (a)(4) of this section;

(B) acts for or on behalf of a foreign power which engages in clandestine intelligence activities in the United States contrary to the interests of the United States, when the circumstances of such person's presence in the United States indicate that such person may engage in such activities in the United States, or when such person knowingly aids or abets any person in the conduct of such activities or knowingly conspires with any person to engage in such activities; or

(2) any person who—

(A) knowingly engages in clandestine intelligence gathering activities for or on behalf of a foreign power, which activities involve or may involve a violation of the criminal statutes of the United States;

(B) pursuant to the direction of an intelligence service or network of a foreign power, knowingly engages in any other clandestine intelligence activities for or on behalf of such foreign power, which activities involve or are about to involve a violation of the criminal statutes of the United States;

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[1] Note use of the term "terrorism" as defined in sec. 1801(c) for purposes of this chapter. The term "terrorism" appears in the chapter in sec. 1801(a)(4).

(C) knowingly engages in sabotage or international terrorism, or activities that are in preparation therefor, or on behalf of a foreign power, or

(D) knowingly aids or abets any person in the conduct of activities described in subparagraph (A), (B), or (C) or knowingly conspires with any person to engage in activities described in subparagraph (A),(B), or (C).

(c) "International terrorism" means [1] activities that—

(1) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or any State;

(2) appear to be intended—

(A) to intimidate or coerce a civilian population;

(B) to influence the policy of a government by intimidation or coercion; or

(C) to effect the conduct of a government by assassination or kidnapping; and

(3) occur totally outside the United States, or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to coerce or intimidate, or the locale in which their perpetrators operate or seek asylum.

(d) "Sabotage" means activities that involve a violation of chapter 105 of Title 18, or that would involve such a violation if committed against the United States.

(e) "Foreign intelligence information" means—

(1) information that relates to, and if concerning a United States person is necessary to, the ability of the United States to protect against—

(A) actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power;

(B) sabotage or international terrorism by a foreign power or an agent of a foreign power; or

(C) clandestine intelligence activities by an intelligence service or network of a foreign power or by an agent of a foreign power; or

(2) information with respect to a foreign power or foreign territory that relates to, and if concerning a United States person is necessary to—

(A) the national defense or the security of the United States; or

(B) the conduct of the foreign affairs of the United States.

(f) "Electronic surveillance" means—

(1) the acquisition by an electronic, mechanical, or other surveillance device of the contents of any wire or radio communication sent by or intended to be received by a particular, known United States person who is in the

United States, if the contents are acquired by intentionally targeting that United States person, under circumstances in which a person has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes;

(2) the acquisition by an electronic, mechanical, or other surveillance device of the contents of any wire communication to or from a person in the United States, without the consent of any party thereto, if such acquisition occurs in the United States;

(3) the intentional acquisition by an electronic, mechanical, or other surveillance device of the contents of any radio communication, under circumstances in which a person has a reasonable expectation of privacy and a warrant would be required for law enforcement purpose, and if both the sender and all intended recipients are located without the United States; or

(4) the installation or use of an electronic, mechanical, or other surveillance device in the United States for monitoring to acquire information, other than from a wire or radio communication, under circumstances in which a person has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes.

(g) "Attorney General" means the Attorney General of the United States (or Acting Attorney General) or the Deputy Attorney General.

(h) "Minimization procedures", with respect to electronic surveillance, means—

(1) specific procedures, which shall be adopted by the Attorney General, that are reasonably designed in light of the purpose and technique of the particular surveillance, to minimize the acquisition and retention, and prohibit the dissemination, of nonpublicly available information concerning unconsenting United States persons consistent with the need of the United States to obtain, produce, and disseminate foreign intelligence information;

(2) procedures that require that nonpublicly available information, which is not foreign intelligence information, as defined in subsection (e)(1) of this section, shall not be disseminated in a manner that identifies any United States person, without such person's consent, unless such person's identity is necessary to understand foreign intelligence information or assess its importance;

(3) notwithstanding paragraphs (1) and (2), procedures that allow for the retention and dissemination of information that is evidence of a crime which has been, is being, or is about to be committed and that is to be retained or disseminated for law enforcement purposes; and

(4) notwithstanding paragraphs (1), (2), and (3), with respect to any electronic surveillance approved pursuant to section 1802(a) of this title, procedures that require that no contents of any communication to which a United States person is a party shall be disclosed, disseminated, or used for any purpose or retained for longer than twenty-four

hours unless a court order under section 1805 of this title is obtained or unless the Attorney General determines that the information indicates a threat of death or serious bodily harm to any person.

(i) "United States person" means a citizen of the United States, an alien lawfully admitted for permanent residence (as defined in section 1101(a)(20) of Title 8), an unincorporated association a substantial number of members of which are citizens of the United States or aliens lawfully admitted for permanent residence, or a corporation which is incorporated in the United States, but does not include a corporation or an association which is a foreign power, as defined in subsection (a)(1), (2), or (3) of this section.

(j) "United States", when used in a geographic sense, means all areas under the territorial sovereignty of the United States and the Trust Territory of the Pacific Islands.

(k) "Aggrieved person" means a person who is the target of an electronic surveillance or any other person whose communications or activities were subject to electronic surveillance.

(*l*) "Wire communication" means any communication while it is being carried by a wire, cable, or other like connection furnished or operated by any person engaged as a common carrier in providing or operating such facilities for the transmission of interstate or foreign communications.

(m) "Person" means any individual, including any officer or employee of the Federal Government, or any group, entity, association, corporation, or foreign power.

(n) "Contents", when used with respect to a communication, includes any information concerning the identify of the parties to such communication or the existence, substance, purport, or meaning of that communication.

(o) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, and any territory or possession of the United States.

§ 1802. Electronic surveillance authorization without court order; certification by Attorney General; reports to congressional committees; transmittal under seal; duties and compensation of communication common carrier; applications; jurisdiction of court

(a)(1) Notwithstanding any other law, the President, through the Attorney General, may authorize electronic surveillance without a court under this chapter to acquire foreign intelligence information for periods of up to one year if the Attorney General certifies in writing under oath that—

(A) the electronic surveillance is solely directed at—

(i) the acquisition of the contents of communications transmitted by means of communications used exclusively between or among foreign powers, as defined in section 1801(a)(1), (2), or (3) of this title; or

(ii) the acquisition of technical intelligence, other than the spoken communications of individuals, from property or premises under the open and exclusive control of a foreign power, as defined in section 1801(a)(1), (2), or (3) of this title;

(B) there is no substantial likelihood that the surveillance will acquire the contents of any communication to which a United States person is a party; and

(C) the proposed minimization procedures with respect to such surveillance meet the definition of minimization procedures under section 1801(h) of this title; and

if the Attorney General reports such minimization procedures and any changes thereto to the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence at least thirty days prior to their effective date, unless the Attorney General determines immediate action is required and notifies the committees immediately of such minimization procedures and the reason for their becoming effective immediately.

(2) An electronic surveillance authorized by this subsection may be conducted only in accordance with the Attorney General's certification and the minimization procedures adopted by him. The Attorney General shall assess compliance with such procedures and shall report such assessments to the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence under the provisions of section 1808(a) of this title.

(3) The Attorney General shall immediately transmit under seal to the court established under section 1803(a) of this title a copy of his certification. Such certification shall be maintained under security measures established by the Chief Justice with the concurrence of the Attorney General, in consultation with the Director of Central Intelligence, and shall remain sealed unless—

(A) an application for a court order with respect to the surveillance is made under sections 1801(h)(4) and 1804 of this title; or

(B) the certification is necessary to determine the legality of the surveillance under section 1806(f) of this title.

(4) With respect to electronic surveillance authorized by this subsection, the Attorney General may direct a specified communication common carrier to—

(A) furnish all information, facilities, or technical assistance necessary to accomplish the electronic surveillance in such a manner as will protect its secrecy and produce a minimum of interference with the services that such carrier is providing its customers; and

(B) maintain under security procedures approved by the Attorney General and the Director of Central Intelligence any records concerning the surveillance or the aid furnished which such carrier wishes to retain.

The Government shall compensate, at the prevailing rate, such carrier for furnishing such aid.

(b) Applications for a court order under this chapter are authorized if the President has, by written authorization, empowered the Attorney General to approve applications to the court having jurisdiction under section 1803 of this title, and a judge to whom an application is made may, notwithstanding any other law, grant an order, in conformity with section 1805 of this title, approving electronic surveillance of a foreign power or an agent of a foreign power for the purpose of obtaining foreign intelligence information, except that the court shall not have jurisdiction to grant any order approving electronic surveillance directed solely as described in paragraph (1)(A) of subsection (a) of this section unless such surveillance may involve the acquisition of communications of any United States person.

§ 1803. Designation of judges

(a) Court to hear applications and grant orders; record of denial; transmittal to court of review

The Chief Justice of the United States shall publicly designate seven district court judges from seven of the United States judicial circuits who shall constitute a court which shall have jurisdiction to hear applications for and grant orders approving electronic surveillance anywhere within the United States under the procedures set forth in this Act, except that no judge designated under this subsection shall hear the same application for electronic surveillance under this Act which has been denied previously by another judge designated under this subsection. If any judge so designated denies an application for an order authorizing electronic surveillance under this Act, such judge shall provide immediately for the record a written statement of each reason for his decision and, on motion of the United States, the record shall be transmitted, under seal, to the court of review established in subsection (b) of this section.

(b) Court of review; record, transmittal to Supreme Court

The Chief Justice shall publicly designate three judges, one of whom shall be publicly designated as the presiding judge, from the United States district courts or courts of appeals who together shall comprise a court of review which shall have jurisdiction to review the denial of any application made under this Act. If such court determines that the application was properly denied, the court shall immediately provide for the record a written statement of each reason for its decision and, on petition of the United States for a writ of certiorari, the record shall be transmitted under seal to the Supreme Court, which shall have jurisdiction to review such decision.

(c) Expeditious conduct of proceedings, security measures for maintenance of records

Proceedings under this Act shall be conducted as expeditiously as possible. The record of proceedings under this Act, including applications made and orders granted, shall be maintained under security measures established by the Chief Justice in consultation with the Attorney General and the Director of Central Intelligence.

(d) Tenure

Each judge designated under this section shall so serve for a maximum of seven years and shall not be eligible for redesignation, except that the judges first designated under subsection (a) of this section shall be designated for terms of from one to seven years so that one term expires each year, and that judges first designated under subsection (b) of this section shall be designated for terms of three, five, and seven years.

§ 1804. Applications for court orders

(a) Submission by Federal officer; approval of Attorney General; contents

Each application for an order approving electronic surveillance under this chapter shall be made by a Federal officer in writing upon oath or affirmation to a judge having jurisdiction under section 1803 of this title. Each application shall require the approval of the Attorney General based upon his finding that it satisfies the criteria and requirements of such application as set forth in this chapter. It shall include—

(1) the identity of the Federal officer making the application;

(2) the authority conferred on the Attorney General by the President of the United States and the approval of the Attorney General to make the application;

(3) the identity, if known, or a description of the target of the electronic surveillance;

(4) a statement of the facts and circumstances relied upon by the applicant to justify his belief that—

(A) the target of the electronic surveillance is a foreign power or an agent of a foreign power; and

(B) each of the facilities or places at which the electronic surveillance is directed is being used, or is about to be used, by a foreign power or an agent of a foreign power;

(5) a statement of the proposed minimization procedures;

(6) a detailed description of the nature of the information sought and the type of communications or activities to be subjected to the surveillance;

(7) a certification or certifications by the Assistant to the President for National Security Affairs or an executive branch official or officials designated by the President from among those executive officers employed in the area of national security or defense and appointed by the President with the advice and consent of the Senate—

(A) that the certifying official deems the information sought to be foreign intelligence information;

(B) that the purpose of the surveillance is to obtain foreign intelligence information;

(C) that such information cannot reasonably be obtained by normal investigative techniques;

(D) that designates the type of foreign intelligence information being sought according to the categories described in section 1801(e) of this title; and

(E) including a statement of the basis for the certification that—

(i) the information sought is the type of foreign intelligence information designated; and

(ii) such information cannot reasonably be obtained by normal investigative techniques;

(8) a statement of the means by which the surveillance will be effected and a statement whether physical entry is required to effect the surveillance;

(9) a statement of the facts concerning all previous applications that have been made to any judge under this chapter involving any of the persons, facilities, or places specified in the application, and the action taken on each previous application;

(10) a statement of the period of time for which the electronic surveillance is required to be maintained, and if the nature of the intelligence gathering is such that the approval of the use of electronic surveillance under this chapter should not automatically terminate when the described type of information has first been obtained, a description of facts supporting the belief that additional information of the same type will be obtained thereafter, and

(11) whenever more than one electronic, mechanical or other surveillance device is to be used with respect to a particular proposed electronic surveillance, the coverage of the devices involved and what minimization procedures apply to information acquired by each device.

(b) Exclusion of certain information respecting foreign power targets

Whenever the target of the electronic surveillance is a foreign power, as defined in section 1801(a)(1), (2), or (3) of this title, and each of the facilities or places at which the surveillance is directed is owned, leased, or exclusively used by that foreign power, the application need not contain the information required by paragraphs (6), (7)(E), (8), and (11) of subsection (a) of this section, but shall state whether physical entry is required to effect the surveillance and shall contain such information about the surveillance techniques and communications or other information concerning United States persons likely to be obtained as may be necessary to assess the proposed minimization procedures.

(c) Additional affidavits or certifications

The Attorney General may require any other affidavit or certification from any other officer in connection with the application.

(d) Additional information

The judge may require the applicant to furnish such other information as may be necessary to make the determinations required by section 1805 of this title.

§ 1805. Issuance of order

(a) Necessary findings

Upon an application made pursuant to section 1804 of this title, the judge shall enter an ex parte order as requested or as modified approving the electronic surveillance if he finds that—

(1) the President has authorized the Attorney General to approve applications for electronic surveillance for foreign intelligence information;

(2) the application has been made by a Federal officer and approved by the Attorney General;

(3) on the basis of the facts submitted by the applicant there is probable cause to believe that—

(A) the target of the electronic surveillance is a foreign power or an agent of a foreign power: *Provided,* That no United States person may be considered a foreign power or an agent of a foreign power solely upon the basis of activities protected by the first amendment to the Constitution of the United States; and

(B) each of the facilities or places at which the electronic surveillance is directed is being used, or is about to be used, by a foreign power or an agent of a foreign power;

(4) the proposed minimization procedures meet the definition of minimization procedures under section 1801(h) of this title; and

(5) the application which has been filed contains all statements and certifications required by section 1804 of this title and, if the target is a United States person, the certification or certifications are not clearly erroneous on the basis of the statement made under section 1804(a)(7)(E) of this title and any other information furnished under section 1804(d) of this title.

(b) Specifications and directions of orders

An order approving an electronic surveillance under this section shall—

(1) specify—

(A) the identity, if known, or a description of the target of the electronic surveillance;

(B) the nature and location of each of the facilities or places at which the electronic surveillance will be directed;

(C) the type of information sought to be acquired and the type of communications or activities to be subjected to the surveillance;

(D) the means by which the electronic surveillance will be effected and whether physical entry will be used to effect the surveillance;

(E) the period of time during which the electronic surveillance is approved; and

(F) whenever more than one electronic, mechanical, or other surveillance device is to be used under the order, the authorized coverage of the devices involved and what minimization procedures shall apply to information subject to acquisition by each device; and

(2) direct—

(A) that the minimization procedures be followed;

(B) that, upon the request of the applicant, a specified communication or other common carrier, landlord, custodian, or other specified person furnish the applicant forthwith all information, facilities, or technical assistance necessary to accomplish the electronic surveillance in such a manner as will protect its secrecy and produce a minimum of interference with the services that such carrier, landlord, custodian, or other person is providing that target of electronic surveillance;

(C) that such carrier, landlord, custodian, or other person maintain under security procedures approved by the Attorney General and the Director of Central Intelligence any records concerning the surveillance or the aid furnished that such person wishes to retain; and

(D) that the applicant compensate, at the prevailing rate, such carrier, landlord, custodian, or other person for furnishing such aid.

(c) Exclusion of certain information respecting foreign power targets

Whenever the target of the electronic surveillance is a foreign power, as defined in section 1801(a)(1), (2), or (3) of this title, and each of the facilities or places at which the surveillance is directed is owned, leased, or exclusively used by that foreign power, the order need not contain the information required by subparagraphs (C), (D), and (F) of subsection (b)(1) of this section, but shall generally describe the information sought, the communications or activities to be subjected to the surveillance, and the type of electronic surveillance involved, including whether physical entry is required.

(d) Duration of order; extensions; review of circumstances under which information was acquired, retained or disseminated

(1) An order issued under this section may approve an electronic surveillance for the period necessary to achieve its purpose, or for ninety days, whichever is less, except that an order under this section shall approve an electronic surveillance targeted against a foreign power, as defined in section 1801(a)(1), (2), or (3) of this title, for the period specified in the application or for one year, whichever is less.

(2) Extensions of an order issued under this chapter may be granted on the same basis as an original order upon an application for an extension and new findings made in the same manner as required for an original order, except that an extension of an order under this Act for a surveillance targeted against a foreign power, as defined in section 1801(a)(5) or (6) of this title, or against a foreign power as defined in section 1801(a)(4) of this title that is not a United States person, may be for a period not to exceed one year if the judge finds probable cause to believe that no communication of any individual United States person will be acquired during the period.

(3) At or before the end of the period of time for which electronic surveillance is approved by an order or an extension, the judge may assess compliance with the minimization procedures by reviewing circumstances under which information concerning United States persons was acquired, retained, or disseminated.

(e) Emergency orders

Notwithstanding any other provision of this chapter, when the Attorney General reasonably determines that—

(1) an emergency situation exists with respect to the employment of electronic surveillance to obtain foreign intelligence

information before an order authorizing such surveillance can with due diligence be obtained; and

(2) the factual basis for issuance of an order under this chapter to approve such surveillance exists;

he may authorize the emergency employment of electronic surveillance if a judge having jurisdiction under section 1803 of this title is informed by the Attorney General or his designee at the time of such authorization that the decision has been made to employ emergency electronic surveillance and if an application in accordance with this chapter is made to that judge as soon as practicable, but not more than twenty-four hours after the Attorney General authorizes such surveillance. If the Attorney General authorizes such emergency employment of electronic surveillance, he shall require that the minimization procedures required by this chapter for the issuance of a judicial order be followed. In the absence of a judicial order approving such electronic surveillance, the surveillance shall terminate when the information sought is obtained, when the application for the order is denied, or after the expiration of twenty-four hours from the time of authorization by the Attorney General, whichever is earliest. In the event that such application for approval is denied, or in any other case where the electronic surveillance is terminated and no order is issued approving the surveillance, no information obtained or evidence derived from such surveillance shall be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in or before any court, grand jury, department, office, agency, regulatory body, legislative committee, or other authority of the United States, a State, or political subdivision thereof, and no information concerning any United States person acquired from such surveillance shall subsequently be used or disclosed in any other manner by Federal officers or employees without the consent of such person, except with the approval of the Attorney General if the information indicates a threat of death or serious bodily harm to any person. A denial of the application made under this subsection may be reviewed as provided in section 1803 of this title.

(f) Testing of electronic equipment; discovering unauthorized electronic surveillance; training of intelligence personnel

Notwithstanding any other provision of this chapter, officers, employees, or agents of the United States are authorized in the normal course of their official duties to conduct electronic surveillance not targeted against the communications of any particular person or persons, under procedures approved by the Attorney General, solely to—

(1) test the capability of electronic equipment, if—

(A) it is not reasonable to obtain the consent of the persons incidentally subjected to the surveillance;

(B) the test is limited in extent and duration to that necessary to determine the capability of the equipment;

(C) the contents of any communication acquired are retained and used only for the purpose of determining the capability of the equipment, are disclosed only to test personnel, and are destroyed before or immediately upon completion of the test; and:

(D) *Provided,* That the test may exceed ninety days only with the prior approval of the Attorney General;

(2) determine the existence and capability of electronic surveillance equipment being used by persons not authorized to conduct electronic surveillance, if—

(A) it is not reasonable to obtain the consent of persons incidentally subjected to the surveillance;

(B) such electronic surveillance is limited in extent and duration to that necessary to determine the existence and capability of such equipment; and

(C) any information acquired by such surveillance is used only to enforce chapter 119 of Title 18, or section 605 of Title 47, or to protect information from unauthorized surveillance; or

(3) train intelligence personnel in the use of electronic surveillance equipment, if—

(A) it is not reasonable to—

(i) obtain the consent of the persons incidentally subjected to the surveillance;

(ii) train persons in the course of surveillance otherwise authorized by this chapter; or

(iii) train persons in the use of such equipment without engaging in electronic surveillance;

(B) such electronic surveillance is limited in extent and duration to that necessary to train the personnel in the use of the equipment; and

(C) no contents of any communication acquired are retained or disseminated for any purpose, but are destroyed as soon as reasonably possible.

(g) Retention of certifications, applications and orders

Certifications made by the Attorney General pursuant to section 1802(a) of this title and applications made and orders granted under this chapter shall be retained for a period of at least ten years from the date of the certification or application.

§ 1806. Use of information

(a) Compliance with minimization procedures; privileged communications; lawful purposes

Information acquired from an electronic surveillance conducted pursuant to this chapter concerning any United States person may be used and disclosed by Federal officers and employees without the consent of the United States person only in accordance with the minimization procedures required by this chapter. No otherwise privileged communication obtained in accordance with, or in violation of, the provisions of this chapter shall lose its privileged character. No information acquired from an electronic surveillance pursuant to this chapter may be used or disclosed by Federal officers or employees except for lawful purposes.

(b) Statement for disclosure

No information acquired pursuant to this chapter shall be disclosed for law enforcement purposes unless such disclosure is accompanied by a statement that such information, or any information derived therefrom, may only be used in a criminal proceeding with the advance authorization of the Attorney General.

(c) Notification by United States

Whenever the Government intends to enter into evidence or otherwise use or disclose in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the United States, against an aggrieved person, any information obtained or derived from an electronic surveillance of that aggrieved person pursuant to the authority of this chapter, the Government shall, prior to the trial, hearing, or other proceeding or at a reasonable time prior to an effort to so disclose or so use that information or submit it in evidence, notify the aggrieved person and the court or other authority in which the information is to be disclosed or used that the Government intends to so disclose or so use such information.

(d) Notification by States or political subdivisions

Whenever any State or political subdivision thereof intends to enter into evidence or otherwise use or disclose in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of a State or a political subdivision thereof, against an aggrieved person any information obtained or derived from an electronic surveillance of that aggrieved person pursuant to the authority of this chapter, the State or political subdivision thereof shall notify the aggrieved person, the court or other authority in which the information is to be disclosed or used, and the Attorney General that the State or political subdivision thereof intends to so disclose or so use such information.

(e) Motion to suppress

Any person against whom evidence obtained or derived from an electronic surveillance to which he is an aggrieved person is to be, or has been, introduced or otherwise used or disclosed in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the United States, a State, or a political subdivision thereof, may move to suppress the evidence obtained or derived from such electronic surveillance on the grounds that—

(1) the information was unlawfully acquired; or

(2) the surveillance was not made in conformity with an order of authorization or approval.

Such a motion shall be made before the trial, hearing, or other proceeding unless there was no opportunity to make such a motion or the person was not aware of the grounds of the motion.

(f) In camera and ex parte review by district court

Whenever a court or other authority is notified pursuant to subsection (c) or (d) of this section, or whenever a motion is made pursuant to subsection (e) of this section, or whenever any motion or request is made by an aggrieved person pursuant to any other statute or rule of the United States or any State before any court or other authority of the United States or any State to discover or obtain applications or orders or other materials relating to electronic surveillance or to discover, obtain, or suppress evidence or information obtained or derived from electronic surveillance under this Act, the United States district court or, where the motion is made before another authority, the United States district court in the same district as the authority, shall, notwithstanding any other law, if the Attorney General files an affidavit under oath that disclosure or an adversary hearing would harm the national security of the United States, review in camera and ex parte the application, order, and such other materials relating to the surveillance as may be necessary to determine whether the surveillance of the aggrieved person was lawfully authorized and conducted. In making this determination, the court may disclose to the aggrieved person, under appropriate security procedures and protective orders, portions of the application, order, or other materials relating to the surveillance only where such disclosure is necessary to make an accurate determination of the legality of the surveillance.

(g) Suppression of evidence; denial of motion

If the United States district court pursuant to subsection (f) of this section determines that the surveillance was not lawfully authorized or conducted, it shall, in accordance with the requirements of law, suppress the evidence which was unlawfully obtained or derived from electronic surveillance of the aggrieved person or otherwise grant the motion of the aggrieved person. If the court determines that the surveillance was lawfully authorized and conducted, it shall deny the motion of the aggrieved person except to the extent that due process requires discovery or disclosure.

(h) Finality of orders

Orders granting motions or requests under subsection (g) of this section, decisions under this section that electronic surveillance was not lawfully authorized or conducted, and orders of the United States district court requiring review or granting disclosure or applications, orders, or other materials relating to a surveillance shall be final orders and binding upon all courts of the United States and the several States except a United States court of appeals and the Supreme Court.

(i) Destruction of unintentionally acquired information

In circumstances involving the unintentional acquisition by an electronic, mechanical, or other surveillance device of the contents of any radio communication, under circumstances in which a person has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes, and if both the sender and all intended recipients are located within the United States, such contents shall be destroyed upon recognition, unless the Attorney General determines that the contents indicate a threat of death or serious bodily harm to any person.

(j) Notification of emergency employment of electronic surveillance; contents; postponement, suspension or elimination

If an emergency employment of electronic surveillance is authorized under section 1805(e) of this title and a subsequent order approving the surveillance is not obtained, the judge shall cause to be served on any United States person named in the application and on such other United States persons subject to electronic surveillance as the judge may determine in his discretion it is in the interest of justice to serve, notice of—

(1) the fact of the application;

(2) the period of the surveillance; and

(3) the fact that during the period information was or not obtained.

On an ex parte showing of good cause to the judge the serving of the notice required by this subsection may be postponed or suspended for a period not to exceed ninety days. Thereafter, on a further ex parte showing of good cause, the court shall forego ordering the serving of the notice required this subsection.

§ 1807. Report to Administrative Office of the United States Court and to Congress

In April of each year, the Attorney General shall transmit to the Administrative Office of the United States Court and to Congress a report setting forth with respect to the preceding calendar year—

(a) the total number of applications made for orders and extensions of orders approving electronic surveillance under this chapter; and

(b) the total number of such orders and extensions either granted, modified, or denied.

§ 1808. Report of Attorney General to congressional committees; limitation on authority or responsibility of information gathering activities of congressional committees; report of congressional committees to Congress

(a) On semiannual basis the Attorney General shall fully inform the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence concerning all electronic surveillance under this chapter. Nothing in this chapter shall be deemed to limit the authority and responsibility of the appropriate committees of each House of Congress to obtain such information as they may need to carry out their respective functions and duties.

(b) On or before one year after October 25, 1978, and on the same day each year for four years thereafter, the Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence shall report respectively to the House of Representatives and the Senate, concerning the implementation of this Act. Said reports shall include but not be limited to an analysis and recommendations concerning whether this Act should be (1) amended, (2) repealed, or (3) permitted to continue in effect without amendment.

§ 1809. Criminal sanctions

(a) Prohibited activities

A person is guilty of an offense if he intentionally—

(1) engages in electronic surveillance under color of law except as authorized by statute; or

(2) discloses or uses information obtained under color of law by electronic surveillance, knowing or having reason to know that the information was obtained through electronic surveillance not authorized by statute.

(b) Defense

It is a defense to a prosecution under subsection (a) of this section that the defendant was a law enforcement or investigative officer engaged in the course of his official duties and the electronic surveillance was authorized by and conducted pursuant to a search warrant or court order of a court of competent jurisdiction.

(c) Penalties

An offense described in this section is punishable by a fine of not more than $10,000 or imprisonment for not more than five years, or both.

(d) Federal jurisdiction

There is Federal jurisdiction over an offense under this section if the person committing the offense was an officer or employer of the United States at the time the offense was committed.

§ 1810. Civil liability

An aggrieved person, other than a foreign power or an agent of a foreign power, as defined in section 1810(a) or (b)(1)(A) of this title, respectively, who has been subjected to an electronic surveillance or about whom information obtained by electronic surveillance of such person has been disclosed or used in violation of section 1809 of this title shall have a cause of action against any person who committed such violation and shall be entitled to recover—

(a) actual damages, but not less than liquidated damages of $1,000 or $100 per day for each day of violation, whichever is greater;

(b) punitive damages; and

(c) reasonable attorney's fees and other investigation and litigation costs reasonably incurred.

§ 1811. Authorization during time of war

Notwithstanding any other law, the President, through the Attorney General, may authorize electronic surveillance without a court order under this chapter to acquire foreign intelligence information for a period not to exceed fifteen calendar days following a declaration of war by the Congress.

(2) Executive Order 12333, December 4, 1981, 46 F.R. 59941

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Timely and accurate information about the activities, capabilities, plans, and intentions of foreign powers, organizations, and persons, and their agents, is essential to the national security of the United States. All reasonable and lawful means must be used to ensure that the United States will receive the best intelligence available. For that purpose, by virtue of the authority vested in me

by the Constitution and statutes of the United States of America, including the National Security Act of 1947, as amended, and as President of the United States of America, in order to provide for the effective conduct of United States intelligence activities and the protection of constitutional rights, it is hereby ordered as follows:

PART 1

Goals, Direction, Duties and Responsibilities With Respect to the National Intelligence Effort

1.1 Goals. The United States intelligence effort shall provide the President and the National Security Council with the necessary information on which to base decisions concerning the conduct and development of foreign, defense and economic policy, and the protection of United States national interests from foreign security threats. All departments and agencies shall cooperate fully to fulfill this goal:

(a) Maximum emphasis should be given to fostering analytical competition among appropriate elements of the Intelligence Community.

(b) All means, consistent with applicable United States law and this Order, and with full consideration of the rights of United States persons, shall be used to develop intelligence information for the President and the National Security Council. A balanced approach between technical collection efforts and other means should be maintained and encouraged.

(c) Special emphasis should be given to detecting and countering espionage and other threats and activities directed by foreign intelligence services against the United States Government, or United States corporations, establishments, or persons.

(d) To the greatest extent possible consistent with applicable United States law and this Order, and with full consideration of the rights of United States persons, all agencies and departments should seek to ensure full and free exchange of information in order to derive maximum benefit from the United States intelligence effort.

1.2 The National Security Council.

(a) *Purpose.* The National Security Council (NSC) was established by the National Security Act of 1947 to advise the President with respect to the integration of domestic, foreign and military policies relating to the national security. The NSC shall act as the highest Executive Branch entity that provides review of, guidance for and direction to the conduct of all national foreign intelligence, counterintelligence, and special activities, and attendant policies and programs.

(b) *Committees.* The NSC shall establish such committees as may be necessary to carry out its functions and responsibilities under this Order. The NSC, or a committee established by it, shall consider and submit to the President a policy recommendation, including all dissents, on each special activity and shall review proposals for other sensitive intelligence operations.

1.3 National Foreign Intelligence Advisory Groups.

(a) *Establishment and Duties.* The Director of Central Intelligence shall establish such boards, councils, or groups as required for the purpose of obtaining advice from within the Intelligence Community concerning:

(1) Production, review and coordination of national foreign intelligence;

(2) Priorities for the National Foreign Intelligence Program budget;

(3) Interagency exchanges of foreign intelligence information;

(4) Arrangements with foreign governments on intelligence matters;

(5) Protection of intelligence sources and methods;

(6) Activities of common concern; and

(7) Such other matters as may be referred by the Director of Central Intelligence.

(b) *Membership.* Advisory groups established pursuant to this section shall be chaired by the Director of Central Intelligence or his designated representative and shall consist of senior representatives from organizations within the Intelligence Community and from departments or agencies containing such organizations, as designated by the Director of Central Intelligence. Groups for consideration of substantive intelligence matters will include representatives of organizations involved in the collection, processing and analysis of intelligence. A senior representative of the Secretary of Commerce, the Attorney General, the Assistant to the President for National Security Affairs, and the Office of the Secretary of Defense shall be invited to participate in any group which deals with other than substantive intelligence matters.

1.4 **The Intelligence Community.** The agencies within the Intelligence Community shall, in accordance with applicable United States law and with the other provisions of this Order, conduct intelligence activities necessary for the conduct of foreign relations and the protection of the national security of the United States, including:

(a) Collection of information needed by the President, the National Security Council, the Secretaries of State and Defense, and other Executive Branch officials for the performance of their duties and responsibilities;

(b) Production and dissemination of intelligence;

(c) Collection of information concerning, and the conduct of activities to protect against, intelligence activities directed against the United States, international terrorist and international narcotics activities, and other hostile activities directed against the United States by foreign powers, organizations, persons, and their agents;

(d) Special activities;

(e) Administrative and support activities within the United States and abroad necessary for the performance of authorized activities; and

(f) Such other intelligence activities as the President may direct from time to time.

1.5 **Director of Central Intelligence.** In order to discharge the duties and responsibilities prescribed by law, the Director of Central Intelligence shall be responsible directly to the President and the NSC and shall:

(a) Act as the primary adviser to the President and the NSC on national foreign intelligence and provide the President and other officials in the Executive Branch with national foreign intelligence;

(b) Develop such objectives and guidance for the Intelligence Community as will enhance capabilities for responding to expected future needs for national foreign intelligence;

(c) Promote the development and maintenance of services of common concern by designated intelligence organizations on behalf of the Intelligence Community;

(d) Ensure implementation of special activities;

(e) Formulate policies concerning foreign intelligence and counterintelligence arrangements with foreign governments, coordinate foreign intelligence and counterintelligence relationships between agencies of the Intelligence Community and the intelligence or internal security services of foreign governments, and establish procedures governing the conduct of liaison by any department or agency with such services on narcotics activities;

(f) Participate in the development of procedures approved by the Attorney General governing criminal narcotics intelligence activities abroad to ensure that these activities are consistent with foreign intelligence programs;

(g) Ensure the establishment by the Intelligence Community of common security and access standards for managing and handling foreign intelligence systems, information, and products;

(h) Ensure that programs are developed which protect intelligence sources, methods, and analytical procedures;

(i) Establish uniform criteria for the determination of relative priorities for the transmission of critical national foreign intelligence, and advise the Secretary of Defense concerning the communications requirements of the Intelligence Community for the transmission of such intelligence;

(j) Establish appropriate staffs, committees, or other advisory groups to assist in the execution of the Director's responsibilities;

(k) Have full responsibility for production and dissemination of national foreign intelligence, and authority to levy analytic tasks on departmental intelligence production organizations, in consultation with those organizations, ensuring that appropriate mechanisms for competitive analysis are developed so that diverse points of view are considered fully and differences of judgment within the Intelligence Community are brought to the attention of national policymakers;

(l) Ensure the timely exploitation and dissemination of data gathered by national foreign intelligence collection means, and ensure that the resulting intelligence is disseminated immediately to appropriate government entities and military commands;

(m) Establish mechanisms which translate national foreign intelligence objectives and priorities approved by the NSC into specific guidance for the Intelligence Community, resolve conflicts in tasking priority, provide to departments, and agencies having information collection capabilities that are not part of the National Foreign Intelligence Program advisory tasking concerning collection of national foreign intelligence, and provide for the development of plans and arrangements for transfer of required collection tasking authority to the Secretary of Defense when directed by the President;

(n) Develop, with the advice of the program managers and departments and agencies concerned, the consolidated National Foreign Intelligence Program budget, and present it to the President and the Congress;

(o) Review and approve all requests for reprogramming National Foreign Intelligence Program funds, in accordance with guidelines established by the Office of Management and Budget;

(p) Monitor National Foreign Intelligence Program implementation, and, as necessary, conduct program and performance audits and evaluations;

(q) Together with the Secretary of Defense, ensure that there is no unnecessary overlap between national foreign intelligence programs and Department of Defense intelligence programs consistent with the requirement to develop competitive analysis, and provide to and obtain from the Secretary of Defense all information necessary for this purpose;

(r) In accordance with law and relevant procedures approved by the Attorney General under this Order, give the heads of the departments and agencies access to all intelligence, developed by the CIA or the staff elements of the Director of Central Intelligence, relevant to the national intelligence needs of the departments and agencies; and

(s) Facilitate the use of national foreign intelligence products by Congress in a secure manner.

1.6 Duties and Responsibilities of the Heads of Executive Branch Departments and Agencies.

(a) The heads of all Executive Branch departments and agencies shall, in accordance with law and relevant procedures approved by the Attorney General under this Order, give the Director of Central Intelligence access to all information relevant to the national intelligence needs of the United States, and shall give due consideration to the requests from the Director of Central Intelligence for appropriate support for Intelligence Community activities.

(b) The heads of departments and agencies involved in the National Foreign Intelligence Program shall ensure timely development and submission to the Director of Central Intelligence by the program managers and heads of component activities of proposed national programs and budgets in the format designated by the Director of Central Intelligence, and shall also ensure that the Director of Central Intelligence is provided, in a timely and responsive manner, all information necessary to perform the Director's program and budget responsibilities.

(c) The heads of departments and agencies involved in the National Foreign Intelligence Program may appeal to the President decisions by the Director of Central Intelligence on budget or reprogramming matters of the National Foreign Intelligence Program.

1.7 **Senior Officials of the Intelligence Community.** The heads of departments and agencies with organizations in the Intelligence Community or the heads of such organizations, as appropriate shall:

(a) Report to the Attorney General possible violations of federal criminal laws by employees and of specified federal criminal laws by any other person as provided in procedures agreed upon by the Attorney General and the head of the department or agency concerned, in a manner consistent with the protection of intelligence sources and methods, as specified in those procedures;

(b) In any case involving serious or continuing breaches of security, recommend to the Attorney General that the case be referred to the FBI for further investigation;

(c) Furnish the Director of Central Intelligence and the NSC, in accordance with applicable law and procedures approved by the Attorney General under this Order, the information required for the performance of their respective duties;

(d) Report to the Intelligence Oversight Board, and keep the Director of Central Intelligence appropriately informed, concerning any intelligence activities of their organizations that they have reason to believe may be unlawful or contrary to Executive order or Presidential directive;

(e) Protect intelligence and intelligence sources and methods from unauthorized disclosure consistent with guidance from the Director of Central Intelligence;

(f) Disseminate intelligence to cooperating foreign governments under arrangements established or agreed to by the Director of Central Intelligence;

(g) Participate in the development of procedures approved by the Attorney General governing production and dissemination of intelligence resulting from criminal narcotics intelligence activities abroad if their departments, agencies, or organizations have intelligence responsibilities for foreign or domestic narcotics production and trafficking;

(h) Instruct their employees to cooperate fully with the Intelligence Oversight Board; and

(i) Ensure that the Inspectors General and General Counsels for their organizations have access to any information necessary to perform their duties assigned by this Order.

1.8 **The Central Intelligence Agency.** All duties and responsibilities of the CIA shall be related to the intelligence functions set out below. As authorized by this Order; the National Security Act of 1947, as amended; the CIA Act of 1949, as amended; appropriate directives or other applicable law, the CIA shall:

(a) Collect, produce and disseminate foreign intelligence and counterintelligence, including information not otherwise obtainable. The collection of foreign intelligence or counterintelligence within the United States shall be coordinated with the FBI as required by procedures agreed upon by the Director of Central Intelligence and the Attorney General;

(b) Collect, produce and disseminate intelligence on foreign aspects of narcotics production and trafficking;

(c) Conduct counterintelligence activities outside the United States and, without assuming or performing any internal security functions, conduct counterintelligence activities within the United States in coordination with the FBI as required by procedures agreed upon the Director of Central Intelligence and the Attorney General;

(d) Coordinate counterintelligence activities and the collection of information not otherwise obtainable when conducted outside the United States by other departments and agencies;

(e) Conduct special activities approved by the President. No agency except the CIA (or the Armed Forces of the United States in time of war declared by Congress or during any period covered by a report from the President to the Congress under the War Powers Resolution (87 Stat. 855)) may conduct any special activity unless the President determines that another agency is more likely to achieve a particular objective;

(f) Conduct services of common concern for the Intelligence Community as directed by the NSC;

(g) Carry out or contract for research, development and procurement of technical systems and devices relating to authorized functions;

(h) Protect the security of its installations, activities, information, property, and employees by appropriate means, including such investigations of applicants, employees, contractors, and other persons with similar associations with the CIA as are necessary; and

(i) Conduct such administrative and technical support activities within and outside the United States as are necessary to perform the functions described in sections (a) and through (h) above, including procurement and essential cover and proprietary arrangements.

1.9 The Department of State. The Secretary of State shall:

(a) Overtly collect information relevant to United States foreign policy concerns;

(b) Produce and disseminate foreign intelligence relating to United States foreign policy as required for the execution of the Secretary's responsibilities;

(c) Disseminate, as appropriate, reports received from United States diplomatic and consular posts;

(d) Transmit reporting requirements of the Intelligence Community to the Chiefs of United States Missions abroad; and

(e) Support Chiefs of Missions in discharging their statutory responsibilities for direction and coordination of mission activities.

1.10 The Department of the Treasury. The Secretary of the Treasury shall:

(a) Overtly collect foreign financial and monetary information;

(b) Participate with the Department of State in the overt collection of general foreign economic information;

(c) Produce and disseminate foreign intelligence relating to United States economic policy as required for the execution of the Secretary's responsibilities; and

(d) Conduct, through the United States Secret Service, activities to determine the existence and capability of surveillance equipment being used against the President of the United States, the Executive Office of the President, and, as authorized by the Secretary of the Treasury or the President, other Secret Service protectees and United States officials. No information shall be acquired intentionally through such activities except to protect against such surveillance, and those activities shall be conducted pursuant to procedures agreed upon by the Secretary of the Treasury and the Attorney General.

1.11 The Department of Defense. The Secretary of Defense shall:

(a) Collect national foreign intelligence and be responsive to collection tasking by the Director of Central Intelligence;

(b) Collect, produce and disseminate military and military-related foreign intelligence and counterintelligence as required for execution of the Secretary's responsibilities;

(c) Conduct programs and missions necessary to fulfill national, departmental and tactical foreign intelligence requirements;

(d) Conduct counterintelligence activities in support of Department of Defense components outside the United States in coordination with the CIA, and within the United States in coordination with the FBI pursuant to procedures agreed upon by the Secretary of Defense and the Attorney General;

(e) Conduct, as the executive agent of the United States Government signals intelligence and communications security activities, except as otherwise directed by the NSC;

(f) Provide for the timely transmission of critical intelligence, as defined by the Director of Central Intelligence, within the United States Government;

(g) Carry out or contract for research, development and procurement of technical systems and devices relating to authorized intelligence functions:

(h) Protect the security of Department of Defense installations, activities, property, information, and employees by appropriate means, including such investigations of applicants, employees, contractors, and other persons with similar associations with the Department of Defense as are necessary;

(i) Establish and maintain military intelligence relationships and military intelligence exchange programs with selected cooperative foreign defense establishments and international organizations, and ensure that such relationships and programs are in accordance with policies formulated by the Director of Central Intelligence;

(j) Direct, operate control and provide fiscal management for the National Security Agency and for defense and military intelligence and national reconnaissance entities; and

(k) Conduct such administrative and technical support activities within and outside the United States as are necessary to perform the functions described in sections (a) through (j) above.

1.12 Intelligence Components Utilized by the Secretary of Defense. In carrying out the responsibilities assigned in section 1.11, the Secretary of Defense is authorized to utilize the following:

(a) *Defense Intelligence Agency,* whose responsibilities shall include:

(1) Collection, production, or, through tasking and coordination, provision of military and military-related intelligence for the Secretary of Defense, the Joint Chiefs of Staff, other Defense components, and, as appropriate, non-Defense agencies;

(2) Collection and provision of military intelligence for national foreign intelligence and counterintelligence products;

(3) Coordination of all Department of Defense intelligence collection requirements;

(4) Management of the Defense Attaché system; and

(5) Provision of foreign intelligence and counterintelligence staff support as directed by the Joint Chiefs of Staff.

(b) *National Security Agency,* whose responsibilities shall include:

(1) Establishment and operation of an effective unified organization for signals intelligence activities, except for the delegation of operational control over certain operations that are conducted through other elements of the Intelligence Community. No other department or agency may engage in signals intelligence activities except pursuant to a delegation by the Secretary of Defense;

(2) Control of signals intelligence collection and processing activities, including assignment of resources to an appropriate agent for such periods and tasks as required for the direct support of military commanders;

(3) Collection of signals intelligence information for national foreign intelligence purposes in accordance with guidance from the Director of Central Intelligence;

(4) Processing of signals intelligence data for national foreign intelligence purposes in accordance with guidance from the Director of Central Intelligence;

(5) Dissemination of signals intelligence information for national foreign intelligence purposes to authorized elements of the Government, including the military services, in accordance with guidance from the Director of Central Intelligence;

(6) Collection processing and dissemination of signals intelligence information for counterintelligence purposes;

(7) Provision of signals intelligence support for the conduct of military operations in accordance with tasking, priorities, and standards of timeliness assigned by the Secretary of Defense. If provision of such support requires use of national collection systems, these systems will be tasked within existing guidance from the Director of Central Intelligence;

(8) Executing the responsibilities of the Secretary of Defense as executive agent for the communications security of the United States Government;

(9) Conduct of research and development to meet the needs of the United States for signals intelligence and communications security;

(10) Protection of the security of its installations, activities, property, information, and employees by appropriate means, including such investigations of applicants, employees, contractors, and other persons with similar associations with the NSA as are necessary;

(11) Prescribing, within its field of authorized operations, security regulations covering operating practices, including the transmission, handling and distribution of signals intelligence and communications security material within and among the elements under control of the Director of the NSA, and exercising the necessary supervisory control to ensure compliance with the regulations;

(12) Conduct of foreign cryptologic liaison relationships, with liaison for intelligence purposes conducted in accordance with policies formulated by the Director of Central Intelligence; and

(13) Conduct of such administrative and technical support activities within and outside the United States as are necessary to perform the functions described in sections (1) through (12) above, including procurement.

(c) *Offices for the collection of specialized intelligence through reconnaissance programs,* whose responsibilities shall include:

(1) Carrying out consolidated reconnaissance programs for specialized intelligence;

(2) Responding to tasking in accordance with procedures established by the Director of Central Intelligence; and

(3) Delegating authority to the various departments and agencies for research, development, procurement, and operation of designated means of collection.

(d) *The foreign intelligence and counterintelligence elements of the Army, Navy, Air Force, and Marine Corps,* whose responsibilities shall include:

(1) Collection, production and dissemination of military and military-related foreign intelligence and counterintelligence, and information on the foreign aspects of narcotics production and trafficking. When collection is conducted in response to national foreign intelligence requirements, it will be conducted in accordance with guidance from the Director of Central Intelligence. Collection of national foreign intelligence, not otherwise obtainable, outside the United States shall be coordinated with the CIA and such collection within the United States shall be coordinated with the FBI;

(2) Conduct of counterintelligence activities outside the United States in coordination with the CIA, and within the United States in coordination with the FBI; and

(3) Monitoring of the development, procurement and management of tactical intelligence systems and equip-

ment and conducting related research, development, and test and evaluation activities.

(e) *Other offices within the Department of Defense appropriate for conduct of the intelligence missions and responsibilities assigned to the Secretary of Defense.* If such other offices are used for intelligence purposes, the provisions of Part 2 of this Order shall apply to those offices when used for those purposes.

1.13 **The Department of Energy.** The Secretary of Energy shall:

(a) Participate with the Department of State in overtly collecting information with respect to foreign energy matters;

(b) Produce and disseminate foreign intelligence necessary for the Secretary's responsibilities;

(c) Participate in formulating intelligence collection and analysis requirements where the special expert capability of the Department can contribute; and

(d) Provide expert technical, analytical and research capability to other agencies within the Intelligence Community.

1.14 **The Federal Bureau of Investigation.** Under the supervision of the Attorney General and pursuant to such regulations as the Attorney General may establish, the Director of the FBI shall:

(a) Within the United States conduct counterintelligence and coordinate counterintelligence activities of other agencies within the Intelligence Community. When a counterintelligence activity of the FBI involves military or civilian personnel of the Department of Defense, the FBI shall coordinate with the Department of Defense;

(b) Conduct counterintelligence activities outside the United States in coordination with the CIA as required by procedures agreed upon by the Director of Central Intelligence and the Attorney General;

(c) Conduct within the United States, when requested by officials of the Intelligence Community designated by the President, activities undertaken to collect foreign intelligence or support foreign intelligence collection requirements of other agencies within the Intelligence Community, or, when requested by the Director of the National Security Agency, to support the communications security activities of the United States Government;

(d) Produce and disseminate foreign intelligence and counterintelligence; and

(e) Carry out or contract for research, development and procurement of technical systems and devices relating to the functions authorized above.

PART 2

Conduct of Intelligence Activities

2.1 **Need.** Accurate and timely information about the capabilities, intentions and activities of foreign powers, organizations, or persons and their agents is essential to informed decisionmaking in the areas of national defense and foreign relations. Collection of such information is a priority objective and will be pursued in a vigorous, innovative and responsible manner that is consistent with the Constitution and applicable law and respectful of the principles upon which the United States was founded.

2.2 Purpose. This Order is intended to enhance human and technical collection techniques, especially those undertaken abroad, and the acquisition of significant foreign intelligence, as well as the detection and countering of international terrorist activities and espionage conducted by foreign powers. Set forth below are certain general principles that, in addition to and consistent with applicable laws, are intended to achieve the proper balance between the acquisition of essential information and protection of individual interests. Nothing in this Order shall be construed to apply to or interfere with any authorized civil or criminal law enforcement responsibility of any department or agency.

2.3 Collection of Information. Agencies within the Intelligence Community are authorized to collect, retain or disseminate information concerning United States persons only in accordance with procedures established by the head of the agency concerned and approved by the Attorney General, consistent with the authorities provided by Part 1 of this Order. Those procedures shall permit collection, retention and dissemination of the following types of information:

(a) Information that is publicly available or collected with the consent of the person concerned;

(b) Information constituting foreign intelligence or counterintelligence, including such information concerning corporations or other commercial organizations. Collection within the United States of foreign intelligence not otherwise obtainable shall be undertaken by the FBI or, when significant foreign intelligence is sought, by other authorized agencies of the Intelligence Community, provided that no foreign intelligence collection by such agencies may be undertaken for the purpose of acquiring information concerning the domestic activities of United States persons;

(c) Information obtained in the course of a lawful foreign intelligence, counterintelligence, international narcotics or international terrorism investigation;

(d) Information needed to protect the safety of any persons or organizations, including those who are targets, victims or hostages of international terrorist organizations;

(e) Information needed to protect foreign intelligence or counterintelligence sources or methods from unauthorized disclosure. Collection within the United States shall be undertaken by the FBI except that other agencies of the Intelligence Community may also collect such information concerning present or former employees, present or former intelligence agency contractors or their present or former employees, or applicants for any such employment or contracting;

(f) Information concerning persons who are reasonably believed to be potential sources or contacts for the purpose of determining their suitability or credibility;

(g) Information arising out of a lawful personnel, physical or communications security investigation;

(h) Information acquired by overhead reconnaissance not directed at specific United States persons;

(i) Incidentally obtained information that may indicate involvement in activities that may violate federal, state, local or foreign laws; and

(j) Information necessary for administrative purposes.

In addition, agencies within the Intelligence Community may disseminate information, other than information derived from signals intelligence, to each appropriate agency within the Intelligence Community for purposes of allowing the recipient agency to determine whether the information is relevant to its responsibilities and can be retained by it.

2.4 Collection Techniques. Agencies within the Intelligence Community shall use the least intrusive collection techniques feasible within the United States or directed against United States persons abroad. Agencies are not authorized to use such techniques as electronic surveillance, unconsented physical search, mail surveillance, physical surveillance, or monitoring devices unless they are in accordance with procedures established by the head of the agency concerned and approved by the Attorney General. Such procedures shall protect constitutional and other legal rights and limit use of such information to lawful governmental purposes. These procedures shall not authorize:

(a) The CIA to engage in electronic surveillance within the United States except for the purpose of training, testing, or conducting countermeasures to hostile electronic surveillance;

(b) Unconsented physical searches in the United States by agencies other than the FBI, except for:

(1) Searches by counterintelligence elements of the military services directed against military personnel within the United States or abroad for intelligence purposes, when authorized by a military commander empowered to approve physical searches for law enforcement purposes, based upon a finding of probable cause to believe that such persons are acting as agents of foreign powers; and

(2) Searches by CIA of personal property of non-United States persons lawfully in its possession.

(c) Physical surveillance of a United States person in the United States by agencies other than the FBI, except for:

(1) Physical surveillance of present or former employees, present or former intelligence agency contractors or their present or former employees, or applicants for any such employment or contracting; and

(2) Physical surveillance of a military person employed by a nonintelligence element of a military service.

(d) Physical surveillance of a United States person abroad to collect foreign intelligence, except to obtain significant information that cannot reasonably be acquired by other means.

2.5 Attorney General Approval. The Attorney General hereby is delegated the power to approve the use for intelligence purposes, within the United States or against a United States person abroad, of any technique for which a warrant would be required if undertaken for law enforcement purposes, provided that such techniques shall not be undertaken unless the Attorney General has determined in each case that there is probable cause to believe that the technique is directed against a foreign power or an agent of a foreign power. Electronic surveillance, as defined in the Foreign Intelligence Surveillance Act of 1978, shall be conducted in accordance with that Act, as well as this Order.

2.6 Assistance to Law Enforcement Authorities. Agencies within the Intelligence Community are authorized to:

(a) Cooperate with appropriate law enforcement agencies for the purpose of protecting the employees, information, property and facilities of any agency within the Intelligence Community;

(b) Unless otherwise precluded by law or this Order, participate in law enforcement activities to investigate or prevent clandestine intelligence activities by foreign powers, or international terrorist or narcotics activities;

(c) Provide specialized equipment, technical knowledge, or assistance of expert personnel for use by any department or agency, or, when lives are endangered, to support local law enforcement agencies. Provision of assistance by expert personnel shall be approved in each case by the General Counsel of the providing agency; and

(d) Render any other assistance and cooperation to law enforcement authorities not precluded by applicable law.

2.7 Contracting. Agencies within the Intelligence Community are authorized to enter into contracts or arrangements for the provision of goods or services with private companies or institutions in the United States and need not reveal the sponsorship of such contracts or arrangements for authorized intelligence purposes. Contracts or arrangements with academic institutions may be undertaken only with the consent of appropriate officials of the institution.

2.8 Consistency With Other Laws. Nothing in this Order shall be construed to authorize any activity in violation of the Constitution or statutes of the United States.

2.9 Undisclosed Participation in Organizations Within the United States. No one acting on behalf of agencies within the Intelligence Community may join or otherwise participate in any organization in the United States on behalf of any agency within the Intelligence Community without disclosing his intelligence affiliation to appropriate officials of the organization, except in accordance with procedures established by the head of the agency concerned and approved by the Attorney General. Such participation shall be authorized only if it is essential to achieving lawful purposes as determined by the agency head or designee. No such participation may be undertaken for the purpose of influencing the activity of the organization or its members except in cases where:

(a) The participation is undertaken on behalf of the FBI in the course of a lawful investigation; or

(b) The organization concerned is composed primarily of individuals who are not United States persons and is reasonably believed to be acting on behalf of a foreign power.

2.10 Human Experimentation. No agency within the Intelligence Community shall sponsor, contract for or conduct research on human subjects except in accordance with guidelines issued by the Department of Health and Human Services. The subject's informed consent shall be documented as required by those guidelines.

2.11 Prohibition on Assassination. No person employed by or acting on behalf of the United States Government shall engage in, or conspire to engage in, assassination.

2.12 Indirect Participation. No agency of the Intelligence Community shall participate in or request any person to undertake activities forbidden by this Order.

PART 3

General Provisions

3.1 Congressional Oversight. The duties and responsibilities of the Director of Central Intelligence and the heads of other departments, agencies, and entities engaged in intelligence activities to cooperate with the Congress in the conduct of its responsibilities for oversight of intelligence activities shall be as provided in title 50, United States Code, section 413. The requirements of section 662 of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2422), and section 501 of the National Security Act of 1947, as amended (50 U.S.C. 413), shall apply to all special activities as defined in this Order.

3.2 Implementation. The NSC, the Secretary of Defense, the Attorney General, and the Director of Central Intelligence shall issue such appropriate directives and procedures as are necessary to implement this Order. Heads of agencies within the Intelligence Community shall issue appropriate supplementary directives and procedures consistent with this Order. The Attorney General shall provide a statement of reasons for not approving any procedures established by the head of an agency in the Intelligence Community other than the FBI. The National Security Council may establish procedures in instances where the agency head and the Attorney General are unable to reach agreement on other than constitutional or other legal grounds.

3.3 Procedures. Until the procedures required by this Order have been established, the activities herein authorized which require procedures shall be conducted in accordance with existing procedures or requirements established under Executive Order No. 12036. Procedures required by this Order shall be established as expeditiously as possible. All procedures promulgated pursuant to this Order shall be made available to the congressional intelligence committees.

3.4 Definitions. For the purposes of this Order, the following terms shall have these meanings:

(a) *Counterintelligence* means information gathered and activities conducted to protect against espionage, other intelligence activities, sabotage, or assassinations conducted for or on behalf of foreign powers, organizations or persons, or international terrorist activities, but not including personnel, physical, document or communications security programs.

(b) *Electronic surveillance* means acquisition of a nonpublic communication by electronic means without the consent of a person who is a party to an electronic communication or, in the case of a nonelectronic communication, without the consent of a person who is visibly present at the place of communication, but not including the use of radio direction-finding equipment solely to determine the location of a transmitter.

(c) *Employee* means a person employed by, assigned to or acting for an agency within the Intelligence Community.

(d) *Foreign intelligence* means information relating to the capabilities, intentions and activities of foreign powers, organizations or persons, but not including counterintelligence except for information on international terrorist activities.

(e) *Intelligence activities* means all activities that agencies within the Intelligence Community are authorized to conduct pursuant to this Order.

(f) *Intelligence Community* and *agencies within the Intelligence Community* refer to the following agencies or organizations:

(1) The Central Intelligence Agency (CIA);

(2) The National Security Agency (NSA);

(3) The Defense Intelligence Agency (DIA);

(4) The offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs;

(5) The Bureau of Intelligence and Research of the Department of State;

(6) The intelligence elements of the Army, Navy, Air Force, and Marine Corps, the Federal Bureau of Investigation (FBI), the Department of the Treasury, and the Department of Energy; and

(7) The staff elements of the Director of Central Intelligence.

(g) *The National Foreign Intelligence Program* includes the programs listed below, but its composition shall be subject to review by the National Security Council and modification by the President:

(1) The programs of the CIA;

(2) The Consolidated Cryptologic Program, the General Defense Intelligence Program, and the programs of the offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance, except such elements as the Director of Central Intelligence and the Secretary of Defense agree should be excluded;

(3) Other programs of agencies within the Intelligence Community designated jointly by the Director of Central Intelligence and the head of the department or by the President as national foreign intelligence or counterintelligence activities;

(4) Activities of the staff elements of the Director of Central Intelligence;

(5) Activities to acquire the intelligence required for the planning and conduct of tactical operations by the United States military forces are not included in the National Foreign Intelligence Program.

(h) *Special activities* means activities conducted in support of national foreign policy objectives abroad which are planned and executed so that the role of the United States Government is not apparent or acknowledged publicly, and functions in support of such activities, but which are not intended to influence United States political processes, public opinion, policies, or media and do not include diplomatic activities or the collection and production of intelligence or related support functions.

(i) *United States person* means a United States citizen, an alien known by the intelligence agency concerned to be a permanent resident alien, an unincorporated association substantially composed of United States citizens or permanent resident aliens, or a corporation incorporated in the United States, except for a corporation directed and controlled by a foreign government or governments.

3.5 Purpose and Effect. This Order is intended to control and provide direction and guidance to the Intelligence Community. Nothing contained herein or in any procedures promulgated hereunder is intended to confer any substantive or procedural right or privilege on any person or organization.

3.6 Revocation. Executive Order No. 12036 of January 24, 1978, as amended, entitled "United States Intelligence Activities," is revoked.

(3) Executive Order 12537, October 28, 1985, 50 F.R. 45083

PRESIDENT'S FOREIGN INTELLIGENCE ADVISORY BOARD

By the authority vested in me as President by the Constitution and statutes of the United States of America, and in order to enhance the security of the United States by improving the quality and effectiveness of intelligence available to the United States, it is ordered as follows:

Section 1. There is hereby established within the White House Office, Executive Office of the President, the President's Foreign Intelligence Advisory Board (the "Board"). The Board shall consist of not more than sixteen [1] members, who shall serve at the pleasure of the President and shall be appointed by the President from among trustworthy and distinguished citizens outside the government who are qualified on the basis of achievement, experience, and independence. The President shall establish the terms of the members upon their appointment. To the extent practicable, one-third of the Board at any one time shall be comprised of members whose current term of service does not exceed two years. The President shall designate a Chairman and Vice Chairman from among the members. The Board shall utilize full-time staff and consultants as authorized by the President. Such staff shall be headed by an Executive Director, appointed by the President.

Sec. 2. The Board shall assess the quality, quantity, and adequacy of intelligence collection, of analysis and estimates, of counterintelligence, and other intelligence activities. The Board shall have the authority to continually review the performance of all agencies of the Federal government that are engaged in the collection, evaluation, or production of intelligence or the execution of intelligence policy. The Board shall further be authorized to assess the adequacy of management, personnel, and organization in the intelligence agencies.

Sec. 3. The Board shall report directly to the President and advise him concerning the objectives, conduct, management, and coordination of the various activities of the agencies of the intelligence community. The Board shall report periodically, but at least semiannually, concerning findings and appraisals and shall make appropriate recommendations for actions to improve and enhance the performance of the intelligence efforts of the United States.

Sec. 4. The Board shall receive, consider, and recommend appropriate action which respect to matters, identified to the Board by the Director of Central Intelligence, the Central Intelligence Agency, or other government agencies engaged in intelligence or related activities, in which the support of the Board will further the effectiveness of the national intelligence effort. With respect to matters deemed appropriate by the President, the Board shall advise and make recommendations to the Director of Central Intelligence, the Central Intelligence Agency, and other government agencies engaged in intelligence and related activities, concerning ways to achieve increased effectiveness in meeting national intelligence needs.

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[1] Executive Order 12624 of January 6, 1988, 53 F.R. 489, inserted the word "sixteen" in lieu of "fourteen".

Sec. 5. The Board shall have access to the full extent permitted by applicable law to all information necessary to carry out its duties in the possession of any agency of the Federal government. Information made available to the Board shall be given all necessary security protection in accordance with applicable laws and regulations. Each member of the Board, each member of the Board's staff, and each of the Board's consultants shall execute an agreement never to reveal any classified information obtained by virtue of his or her service with the Board except to the President or to such persons as the President may designate.

Sec. 6. Members of the Board shall serve without compensation, but may receive transportation, expenses, and per diem allowance as authorized by law. Staff and consultants to the Board shall receive pay and allowances as authorized by the President.

Sec. 7. Executive Order No. 12331 of October 20, 1981 is revoked.

NOTE.—This order repealed Executive Order 12331 of October 20, 1981, 46 F.R. 51705.

(4) Executive Order 12334, December 4, 1981, 46 F.R. 59955

PRESIDENT'S INTELLIGENCE OVERSIGHT BOARD [1]

By the authority vested in me as President by the Constitution and statutes of the United States of America, and in order to enhance the security of the United States by assuring the legality of activities of the Intelligence Community, it is hereby ordered as follows:

Section 1. There is hereby established within the White House Office, Executive Office of the President, the President's Intelligence Oversight Board, which shall be composed of three members. One member, appointed from among the membership of the President's Foreign Intelligence Advisory Board, shall be designated by the President as Chairman. Members of the Board shall serve at the pleasure of the President and shall be appointed by the President from among trustworthy and distinguished citizens outside the Government who are qualified on the basis of achievement, experience and independence. The Board shall utilize such full-time staff and consultants as authorized by the President.

Sec. 2. The Board shall:

(a) Inform the President of intelligence activities that any member of the Board believe are in violation of the Constitution or laws of the United States, Executive orders, or Presidential directives;

(b) Forward to the Attorney General reports received concerning intelligence activities that the Board believes may be unlawful;

(c) Review the internal guidelines of each agency within the Intelligence Community concerning the lawfulness of intelligence activities;

(d) Review the practices and procedures of the Inspectors General and General Counsel of the Intelligence Community for discovering and reporting intelligence activities that may be unlawful or contrary to Executive order or Presidential directive; and

(e) Conduct such investigations as the Board deems necessary to carry out its functions under this Order.

Sec. 3. The Board shall, when required by this Order, report directly to the President. The Board shall consider and take appropriate action with respect to matters identified by the Director of Central Intelligence Community. With respect to matters deemed appropriate by the President, the Board shall advise and make appropriate recommendations to the Director of Central Intelligence, the Central Intelligence Agency, and other agencies of the Intelligence Community.

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[1] The Continuing Appropriations Act, 1983 (Public Law 97-276, 96 Stat. 1186) provided the following:

"Sec. 150. Notwithstanding any other provision of this joint resolution, $365,000 shall be made available for the National Security Council, effective October 1, 1982, for the operations of the President's Foreign Intelligence Advisory Board and the President's Intelligence Oversight Board."

Sec. 4. The heads of departments and agencies of the Intelligence Community shall, to the extent permitted by law, provide the Board with all information necessary to carry out its responsibilities. Inspectors General and General Counsel of the Intelligence Community shall, to the extent permitted by law, report to the Board concerning intelligence activities that they have reason to believe may be unlawful or contrary to Executive order or Presidential directive.

Sec. 5. Information made available to the Board shall be given all necessary security protection in accordance with applicable laws and regulations. Each member of the Board, each member of the Board's staff, and each of the Board's consultants shall execute an agreement never to reveal any classified information obtained by virtue of his or her service with the Board except to the President or to such persons as the President may designate.

Sec. 6. Members of the Board shall serve without compensation, but may receive transportation, expense, and per diem allowances as authorized by law. Staff and consultants to the Board shall receive pay and allowances as authorized by the President.

g. National Academy of Peace and Conflict Resolution

Title XV, part B of Public Law 95–561 [H.R. 15], 92 Stat. 2143 at 2376, approved November 1, 1978

TITLE XV—MISCELLANEOUS PROVISIONS

* * * * * * *

PART B—NATIONAL ACADEMY OF PEACE AND CONFLICT RESOLUTION [1]

ESTABLISHMENT

Sec. 1511. There is established a commission to be known as the Commission on Proposals for the National Academy of Peace and Conflict Resolution.

DUTIES OF COMMISSION

Sec. 1512. (a) The Commission shall undertake a study to consider—

(1) whether to establish a National Academy of Peace and Conflict Resolution;

(2) the size, cost, and location of an Academy;

(3) the effects which the establishment of an Academy would have on existing institutions of higher education;

(4) the relationship which would exist between an Academy and the Federal Government;

(5) the feasibility of making grants and providing other forms of assistance to existing institutions of higher education in lieu of, or in addition to, establishing an Academy; and

(6) alternative proposals, which may or may not include the establishment of an Academy, which would assist the Federal Government in accomplishing the goal of promoting peace.

(b) In conducting the study required by subsection (a), the Commission shall—

(1) review the theory and techniques of peaceful resolution of conflict between nations; and

(2) study existing institutions which assist in resolving conflict in the areas of international relations.

MEMBERSHIP

Sec. 1513. (a) The Commission shall be composed of nine members as follows—

(1) three appointed by the President pro tempore of the Senate;

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[1] 20 U.S.C. 1172 note.

(2) three appointed by the Speaker of the House of Representatives; and

(3) three appointed by the President.

(b) Members shall be appointed for the life of the Commission.

(c) A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(d)(1) Except as provided in paragraph (2), members of the Commission each shall be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule (5 U.S.C. 5332) for each day during which they are engaged in the actual performance of the duties of the Commission.

(2) Members of the Commission who are full-time officers or employees of the United States or Members of the Congress shall receive no additional pay on account of their service on the Commission.

(3) While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including a per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

(e) The Commission shall elect a Chairman and a Vice Chairman from among its members.

(f) Five members of the Commission shall constitute a quorum.

(g) The Commission shall meet at the call of the Chairman or a majority of its members.

DIRECTORS AND STAFF OF COMMISSION; EXPERTS AND CONSULTANTS

Sec. 1514. (a) Subject to such rules as may be adopted by the Commission, the Chairman, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classifications and General Schedule pay rates, shall have the power to—

(1) appoint a Director who shall be paid at a rate not to exceed the rate of basic pay in effect for level V of the Executive Schedule (5 U.S.C. 5316);

(2) appoint and fix the compensation of such staff personnel as he considers necessary; and

(3) procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code.

(b) Upon request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist it in carrying out its duties under this title.

POWERS OF COMMISSION

Sec. 1515. (a) The Commission may, for the purpose of carrying out this title, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable. The Commission may administer oaths and affirmations to witnesses appearing before the Commission.

(b) When so authorized by the Commission, any member or agent of the Commission may take any action which the Commission is authorized to take by this section.

(c) The Commission may secure directly from any Federal agency information necessary to enable it to carry out this title. Upon request of the Chairman, the head of any such Federal agency shall furnish such information to the Commission.

REPORTS

Sec. 1516. The Commission shall transmit to the President and to each House of the Congress such interim reports as it considers appropriate and shall transmit a final report to the President and to each House of the Congress not later than one year after the date on which appropriations first become available to carry out this title. The final report shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation as it considers appropriate.

TERMINATION

Sec. 1517. The Commission shall cease to exist sixty days after transmitting its final report under section 1516.

AUTHORIZATION OF APPROPRIATION

Sec. 1518. There is authorized to be appropriated not to exceed $500,000 to carry out this title.

DEFINITIONS

Sec. 1519. For purposes of this title—

(1) the term "Academy" means the National Academy of Peace and Conflict Resolution;

(2) the term "Chairman" means the Chairman of the Commission selected under section 1513(e);

(3) the term "Commission" means the Commission on Proposals for the National Academy of Peace and Conflict Resolution; and

(4) the term "Federal agency" means any agency, department, or independent establishment in the executive branch of the Federal Government, including any Government corporation.

h. United States Institute of Peace Act

Partial text of Public Law 98-525 [Department of Defense Authorization Act, 1985; H.R. 5167], 98 Stat. 2492 at 2649, approved October 19, 1984; as amended by Public Law 99-498 [Higher Education Amendments of 1986, S. 1965], 100 Stat. 1268, approved October 17, 1986; Public Law 100-50 [Higher Education Technical Amendments Act of 1987, H.R. 1846], 101 Stat. 335, approved June 3, 1987; and by Public Law 100-569 [Library Services and Construction and United States Institute of Peace Reauthorization; National Geography Studies Centers; H.R. 4416], 102 Stat. 2862, approved October 31, 1988

AN ACT To authorize appropriations for fiscal year 1985 for the military functions of the Department of Defense, to prescribe military personnel levels for that fiscal year for the Department of Defense, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE: TABLE OF CONTENTS

Section 1. (a) This Act may be cited as the "Department of Defense Authorization Act, 1985".

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TITLE XVII—UNITED STATES INSTITUTE OF PEACE

SHORT TITLE

Sec. 1701. This title may be cited as the "United States Institute of Peace Act".

DECLARATION OF FINDINGS AND PURPOSES

Sec. 1702.[1] (a) The Congress finds and declares that—

(1) a living institution embodying the heritage, ideals, and concerns of the American people for peace would be a significant response to the deep public need for the Nation to develop fully a range of effective options, in addition to armed capacity, that can leash international violence and manage international conflict;

(2) people throughout the world are fearful of nuclear war, are divided by war and threats of war, are experiencing social and cultural hostilities from rapid international change and real and perceived conflicts over interests, and are diverted from peace by the lack of problem-solving skills for dealing with such conflicts;

(3) many potentially destructive conflicts among nations and people have been resolved constructively and with cost efficiency at the international, national, and community levels

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[1] 22 U.S.C. 4601.

through proper use of such techniques as negotiation, conciliation, mediation, and arbitration;

(4) there is a national need to examine the disciplines in the social, behavioral, and physical sciences and the arts and humanities with regard to the history, nature, elements, and future of peace processes, and to bring together and develop new and tested techniques to promote peaceful economic, political, social, and cultural relations in the world;

(5) existing institutions providing programs in international affairs, diplomacy, conflict resolution, and peace studies are essential to further development of techniques to promote peaceful resolution of international conflict, and the peacemaking activities of people in such institutions, government, private enterprise, and voluntary associations can be strengthened by a national institution devoted to international peace research, education and training, and information services;

(6) there is a need for Federal leadership to expand and support the existing international peace and conflict resolution efforts of the Nation and to develop new comprehensive peace education and training programs, basic and applied research projects, and programs providing peace information;

(7) the Commission on Proposals for the National Academy of Peace and Conflict Resolution, created by the Education Amendments of 1978, recommended establishing an academy as a highly desirable investment to further the Nation's interest in promoting international peace;

(8) an institute strengthening and symbolizing the fruitful relation between the world of learning and the world of public affairs, would be the most efficient and immediate means for the Nation to enlarge its capacity to promote the peaceful resolution of international conflicts; and

(9) the establishment of such an institute is an appropriate investment by the people of this Nation to advance the history, science, art, and practice of international peace and the resolution of conflicts among nations without the use of violence.

(b) It is the purpose of this title to establish an independent, nonprofit, national institute to serve the people and the Government through the widest possible range of education and training, basic and applied research opportunities, and peace information services on the means to promote international peace and the resolution of conflicts among the nations and peoples of the world without recourse to violence.

DEFINITIONS

Sec. 1703.[2] As used in this title, the term—

(1) "Institute" means the United States Institute of Peace established by this title; and

(2) "Board" means the Board of Directors of the Institute.

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[2] 22 U.S.C. 4602.

ESTABLISHMENT OF THE INSTITUTE

Sec. 1704.[3] (a) There is hereby established the United States Institute of Peace.

(b) The Institute is an independent nonprofit corporation and an organization described in section 170(c)(2)(B) of the Internal Revenue Code of 1954. The Institute does not have the power to issue any shares of stock or to declare or pay any dividends.

(c) As determined by the Board, the Institute may establish, under the laws of the District of Columbia, a legal entity which is capable of receiving, holding, and investing public funds for purposes in furtherance of the Institute under this title. The Institute may designate such legal entity as the "Endowment of the United States Institute for Peace".

(d) The Institute is liable for the acts of its directors, officers, employees, and agents when acting within the scope of their authority.

(e)(1) The Institute has the sole and exclusive right to use and to allow or refuse others the use of the terms "United States Institute of Peace", "Jennings Randolph Program for International Peace", and "Endowment of the United States Institute of Peace" and the use of any official United States Institute of Peace emblem, badge, seal, and other mark of recognition or any colorable simulation thereof. No powers or privileges hereby granted shall interfere or conflict with established or vested rights secured as of September 1, 1981.

(2) Notwithstanding any other provision of this title, the Institute may use "United States" or "U.S." or any other reference to the United States Government or Nation in its title or in its corporate seal, emblem, badge, or other mark of recognition or colorable simulation thereof in any fiscal year only if there is an authorization of appropriations for the Institute for such fiscal year provided by law.

POWERS AND DUTIES

Sec. 1705.[4] (a) The Institute may exercise the powers conferred upon a nonprofit corporation by the District of Columbia Nonprofit Corporation Act consistent with this title, except for section 5(o) of the District of Columbia Nonprofit Corporation Act (D.C. Code, sec. 29-1005(o)).

(b) The Institute, acting through the Board, may—

(1) establish a Jennings Randolph Program for International Peace and appoint, for periods up to two years, scholars and leaders in peace from the United States and abroad to pursue scholarly inquiry and other appropriate forms of communication on international peace and conflict resolution and, as appropriate, provide stipends, grants, fellowships, and other support to the leaders and scholars;

(2) enter into formal and informal relationships with other institutions, public and private, for purposes not inconsistent with this title;

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[3] 22 U.S.C. 4603.

[4] 22 U.S.C 4604.

(3)[5] establish a Jeannette Rankin Research Program on Peace to conduct research and make studies, particularly of an interdisciplinary or of a multidisciplinary nature, into the causes of war and other international conflicts and the elements of peace among the nations and peoples of the world, including peace theories, methods, techniques, programs, and systems, and into the experiences of the United States and other nations in resolving conflicts with justice and dignity and without violence as they pertain to the advancement of international peace and conflict resolution, placing particular emphasis on realistic approaches to past successes and failures in the quest for peace and arms control and utilizing to the maximum extent possible United States Government documents and classified materials from the Department of State, the Department of Defense, the Arms Control and Disarmament Agency, and the intelligence community;

(4) develop programs to make international peace and conflict resolution research, education, and training more available and useful to persons in government, private enterprise, and voluntary associations, including the creation of handbooks and other practical materials;

(5) provide, promote, and support peace education and research programs at graduate and postgraduate levels;

(6) conduct training, symposia, and continuing education programs for practitioners, policymakers, policy implementers, and citizens and noncitizens directed to developing their skills in international peace and conflict resolution;

(7) develop, for publication or other public communication, and disseminate, the carefully selected products of the Institute;

(8) establish a clearinghouse and other means for disseminating information, including classified information that is properly safeguarded, from the field of peace learning to the public and to government personnel with appropriate security clearances;

(9) recommend to the Congress the establishment of a United States Medal of Peace to be awarded under such procedures as the Congress may determine, except that no person associated with the Institute may receive the United States Medal of Peace; and

(10) secure directly, upon request of the president of the Institute to the head of any Federal department or agency and in accordance with section 552 of title 5, United States Code (relating to freedom of information), information necessary to enable the Institute to carry out the purposes of this title if such release of the information would not unduly interfere with the proper functioning of a department or agency, including classified information if the Institute staff and members of

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[5] Sec. 25 of the Higher Education Technical Amendments Act (Public Law 100–50, 101 Stat. 363) amended this Act as follows:

"Section 1703 of the United States Institute of Peace Act is amended by inserting after '(3)' the following: 'establish a Jeannette Rankin Research Program on Peace to'."

This was misplaced; sec. 6272 of Public Law 100–418 (102 Stat. 1523) amended sec. 25 of Public Law 100–50 to insert this language in sec. 1705(b)(3).

the Board who have access to such classified information obtain appropriate security clearances from the Department of Defense and the Department of State.

(c) The Institute may undertake extension and outreach activities under this title by making grants and entering into contracts with institutions of postsecondary, community, secondary, and elementary education (including combinations of such institutions), with public and private educational, training, or research institutions (including the American Federation of Labor—the Congress of Industrial Organizations) and libraries, and with public departments and agencies (including State and territorial departments of education and of commerce). No grant may be made to an institution unless it is a nonprofit or official public institution, and at least one-fourth of the Institute's annual appropriations shall be paid to such nonprofit and official public institutions. A grant or contract may be made to—

(1) initiate, strengthen, and support basic and applied research on international peace and conflict resolution;

(2) promote and advance the study of international peace and conflict resolution by educational, training, and research institutions, departments, and agencies;

(3) educate the Nation about and educate and train individuals in peace and conflict resolution theories, methods, techniques, programs, and systems;

(4) assist the Institute in its publication, clearinghouse, and other information services programs;

(5) assist the Institute in the study of conflict resolution between free trade unions and Communist-dominated organizations in the context of the global struggle for the protection of human rights; and

(6) promote the other purposes of this title.

(d) The Institute may respond to the request of a department or agency of the United States Government to investigate, examine, study, and report on any issue within the Institute's competence, including the study of past negotiating histories and the use of classified materials.

(e) The Institute may enter into contracts for the proper operation of the Institute.

(f) The Institute may fix the duties of its officers, employees, and agents, and establish such advisory committees, councils, or other bodies, as the efficient administration of the business and purposes of the Institute may require.

(g)(1) Except as provided in paragraphs (2) and (3), the Institute may obtain grants and contracts, including contracts for classified research for the Department of State, the Department of Defense, the Arms Control and Disarmament Agency, and the intelligence community, and receive gifts and contributions from government at all levels.

(2) The Institute may not accept any gift, contribution, or grant from, or enter into any contract with, a foreign government, any agency or instrumentality of such government, any international organization, or any foreign national, except that the Institute may accept the payment of tuition by foreign nationals for instruction

provided by the Institute. For purposes of this paragraph, the term—

(A) "foreign national" means—

(i) a natural person who is a citizen of a foreign country or who owes permanent allegiance to a foreign country; and

(ii) a corporation or other legal entity in which natural persons who are nationals of a foreign country own, directly or indirectly, more than 50 percent of the outstanding capital stock or other beneficial interest in such legal entity; and

(B) "person" means a natural person, partnership, association, other unincorporated body, or corporation.

(3) Notwithstanding any other provisions of this title, the Institute and the legal entity described in section 1704(c) may not obtain any grant or contract or receive any gift or contribution from any private agency, organization, corporation or other legal entity, institution, or individual.

(h) The Institute may charge and collect subscription fees and develop, for publication or other public communication, and disseminate, periodicals and other materials.

(i) The Institute may charge and collect fees and other participation costs from persons and institutions participating in the Institute's direct activities authorized in subsection (b).

(j) The Institute may sue and be sued, complain, and defend in any court of competent jurisdiction.

(k) The Institute may adopt, alter, use, and display a corporate seal, emblem, badge, and other mark of recognition and colorable simulations thereof.

(l) The Institute may do any and all lawful acts and things necessary or desirable to carry out the objectives and purposes of this title.

(m) The Institute shall not itself undertake to influence the passage or defeat of any legislation by the Congress of the United States or by any State or local legislative bodies, or by the United Nations, except that personnel of the Institute may testify or make other appropriate communication when formally requested to do so by a legislative body, a committee, or a member thereof.

(n) The Institute may obtain administrative support services from the Administrator of General Services on a reimbursable basis.

BOARD OF DIRECTORS

Sec. 1706.[6] (a) The powers of the Institute shall be vested in a Board of Directors unless otherwise specified in this title.

(b) The Board shall consist of fifteen voting members as follows:

(1) The Secretary of State (or if the Secretary so designates, another officer of the Department of State who was appointed with the advice and consent of the Senate).

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[6] 22 U.S.C. 4605.

(2) The Secretary of Defense (or if the Secretary so designates, another officer of the Department of Defense who was appointed with the advice and consent of the Senate).

(3) The Director of the Arms Control and Disarmament Agency (or if the Director so designates, another officer of that Agency who was appointed with the advice and consent of the Senate).

(4) The president of the National Defense University (or if the president so designates, the vice president of the National Defense University).

(5) Eleven individuals appointed by the President, by and with the advice and consent of the Senate.

(c) Not more than eight voting members of the Board (including members described in paragraphs (1) through (4) of subsection (b)) may be members of the same political party.

(d)(1) Each individual appointed to the Board under subsection (b)(5) shall have appropriate practical or academic experience in peace and conflict resolution efforts of the United States.

(2) Officers and employees of the United States Government may not be appointed to the Board under subsection (b)(5).

(e)(1) Members of the Board appointed under subsection (b)(5) shall be appointed to four year terms, except that—

(A) the term of six of the members initially appointed shall be two years, as designated by the President at the time of their nomination;

(B) a member may continue to serve until his or her successor is appointed; and

(C) a member appointed to replace a member whose term has not expired shall be appointed to serve the remainder of that term.

(2) The terms of the members of the Board initially appointed under subsection (b)(5) shall begin on January 20, 1985, and subsequent terms shall begin upon the expiration of the preceding term, regardless of when a member is appointed to fill that term.

(3) The President may not nominate an individual for appointment to the Board under subsection (b)(5) prior to January 20, 1985, but shall submit the names of eleven nominees for initial Board membership under subsection (b)(5) not later than ninety days after that date. If the Senate rejects such a nomination or if such a nomination is withdrawn, the President shall submit the name of a new nominee within fifteen days.

(4) An individual appointed as a member of the Board under subsection (b)(5) may not be appointed to more than two terms on the Board.

(f) A member of the Board appointed under subsection (b)(5) may be removed by the President—

(1) in consultation with the Board, for conviction of a felony, malfeasance in office, persistent neglect of duties, or inability to discharge duties.

(2) upon the recommendation of eight voting members of the Board; or

(3) upon the recommendation of a majority of the members of the Committee on Foreign Affairs and the Committee on Education and Labor of the House of Representatives and a

majority of the members of the Committee on Foreign Relations and the Committee on Labor and Human Resources of the Senate.

A recommendation made in accordance with paragraph (2) may be made only pursuant to action taken at a meeting of the Board, which may be closed pursuant to the procedures of subsection (h)(3). Only members who are present may vote. A record of the vote shall be maintained. The President shall be informed immediately by the Board of the recommendation.

(g) No member of the Board may participate in any decision, action, or recommendation with respect to any matter which directly and financially benefits the member or pertains specifically to any public body or any private or nonprofit firm or organization with which the member is then formally associated or has been formally associated within a period of two years, except that this subsection shall not be construed to prohibit an ex officio member of the Board from participation in actions of the Board which pertain specifically to the public body of which that member is an officer.

(h) Meetings of the Board shall be conducted as follows:

(1) The President shall stipulate by name the nominee who shall be the first Chairman of the Board. The first Chairman shall serve for a term of three years. Thereafter the Board shall elect a Chairman every three years from among the directors appointed by the President under subsection (b)(5) and may elect a Vice Chairman if so provided by the Institute's bylaws.

(2) The Board shall meet at least semiannually, at any time pursuant to the call of the Chairman or as requested in writing to the Chairman by at least five members of the Board. A majority of the members of the Board shall constitute a quorum for any Board meeting.

(3) All meetings of the Board shall be open to public observation and shall be preceded by reasonable public notice. Notice in the Federal Register shall be deemed to be reasonable public notice for purposes of the preceding sentence. In exceptional circumstances, the Board may close those portions of a meeting, upon a majority vote of its members present and with the vote taken in public session, which are likely to disclose information likely to affect adversely any ongoing peace proceeding or activity or to disclose information or matters exempted from public disclosure pursuant to subsection (c) of section 552b of title 5, United State Code.

(i) A director appointed by the President under subsection (b)(5) shall be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day during which the director is engaged in the performance of duties as a member of the Board.

(j) While away from his home or regular place of business in the performance of duties for the Institute, a director shall be allowed travel expenses, including a per diem in lieu of subsistence, not to exceed the expenses allowed persons employed intermittently in Government service under section 5703(b) of title 5, United States Code.

OFFICERS AND EMPLOYEES

Sec. 1707.[7] (a) The Board shall appoint the president of the Institute and such other officers as the Board determines to be necessary. The president of the Institute shall be a nonvoting ex officio member of the Board. All officers shall serve at the pleasure of the Board. The president shall be appointed for an explicit term of years. Notwithstanding any other provision of law limiting the payment of compensation, the president and other officers appointed by the Board shall be compensated at rates determined by the Board, but no greater than that payable for level I of the Executive Schedule under chapter 53 of title 5, United States Code.

(b) Subject to the provisions of section 1705(g)(3), the Board shall authorize the president and any other officials or employees it designates to receive and disburse public moneys, obtain and make grants, enter into contracts, establish and collect fees, and undertake all other activities necessary for the efficient and proper functioning of the Institute.

(c) The president, subject to Institute's bylaws and general policies established by the Board, may appoint, fix the compensation of, and remove such employees of the Institute as the president determines necessary to carry out the purposes of the Institute. In determining employee rates of compensation, the president shall be governed by the provisions of title 5, United States Code, relating to classification and General Schedule pay rates.

(d)(1) The president may request the assignment of any Federal officer or employee to the Institute by an appropriate department, agency, or congressional official or Member of Congress and may enter into an agreement for such assignment, if the affected officer or employee agrees to such assignment and such assignment causes no prejudice to the salary, benefits, status, or advancement within the department, agency, or congressional staff of such officer or employee.

(2) The Secretary of State, the Secretary of Defense, the Director of the Arms Control and Disarmament Agency, and the Director of Central Intelligence each may assign officers and employees of his respective department or agency, on a rotating basis to be determined by the Board, to the Institute if the affected officer or employee agrees to such assignment and such assignment causes no prejudice to the salary, benefits, status, or advancement within the respective department or agency of such officer or employee.

(e) No officer or full-time employee of the Institute may receive any salary or other compensation for services from any source other than the Institute during the officer's or employee's period of employment by the Institute, except as authorized by the Board.

(f)(1) Officers and employees of the Institute shall not be considered officers and employees of the Federal Government except for purposes of the provisions of title 28, United States Code, which relate to Federal tort claims liability, and the provisions of title 5, United States Code, which relate to compensation and benefits, including the following provisions: chapter 51 (relating to classification); subchapters I and III of chapter 53 (relating to pay rates);

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[7] 22 U.S.C. 4606.

subchapter I of chapter 81 (relating to compensation for work injuries); chapter 83 (relating to civil service retirement); chapter 87 (relating to life insurance); and chapter 89 (relating to health insurance). The Institute shall make contributions at the same rates applicable to agencies of the Federal Government under the provisions of title 5 referred to in this section.

(2)[8] The Institute shall not make long-term commitments to employees that are inconsistent with rules and regulations applicable to Federal employees.

(g) No part of the financial resources, income, or assets of the Institute or of any legal entity created by the Institute shall inure to any agent, employee, officer, or director or be distributable to any such person during the life of the corporation or upon dissolution or final liquidation. Nothing in this section may be construed to prevent the payment of reasonable compensation for services or expenses to the directors, officers, employees, and agents of the Institute in amounts approved in accordance with the provisions of this title.

(h) The Institute shall not make loans to its directors, officers, employees, or agents, or to any legal entity created by the Institute. A director, officer, employee, or agent who votes for or assents to the making of a loan or who participates in the making of a loan shall be jointly and severally liable to the Institute for the amount of the loan until repayment thereof.

PROCEDURES AND RECORDS

Sec. 1708.[9] (a) The Institute shall monitor and evaluate and provide for independent evaluation if necessary of programs supported in whole or in part under this title to ensure that the provisions of this title and the bylaws, rules, regulations, and guidelines promulgated pursuant to this title are adhered to.

(b) The Institute shall prescribe procedures to ensure that grants, contracts, and financial support under this title are not suspended unless the grantee, contractor, or person or entity receiving financial support has been given reasonable notice and opportunity to show cause why the action should not be taken.

(c) In selecting persons to participate in Institute activities, the Institute may consider a person's practical experience or equivalency in peace study and activity as well as other formal requirements.

(d) The Institute shall keep correct and complete books and records of account, including separate and distinct accounts of receipts and disbursements of Federal funds. The Institute's annual financial report shall identify the use of such funding and shall present a clear description of the full financial situation of the Institute.

(e) The Institute shall keep minutes of the proceedings of its Board and of any committees having authority under the Board.

(f) The Institute shall keep a record of the names and addresses of its Board members; copies of this title, of any other Acts relating to the Institute, and of all Institute bylaws, rules, regulations, and guidelines; required minutes of proceedings; a record of all applications and proposals and issued or received contracts and grants; and financial records of the Institute. All items required by this subsection may be inspected by any Board member or the member's agent or attorney for any proper purpose at any reasonable time.

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[8] Sec. 301(b) of Public Law 100-569 (102 Stat. 2864) struck out "No Federal funds shall be used to pay for private fringe benefit programs." at this point.

[9] 22 U.S.C. 4607.

(g) The accounts of the Institute shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants or independent licensed public accountants, certified or licensed by a regulatory authority of a State or other political subdivision of the United States on or before December 31, 1970. The audit shall be conducted at the place or places where the accounts of the Institute are normally kept. All books, accounts, financial records, files, and other papers, things, and property belonging to or in use by the Institute and necessary to facilitate the audit shall be made available to the person or persons conducting the audit, and full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians shall be afforded to such person or persons.

(h) The Institute shall provide a report of the audit to the President and to each House of Congress no later than six months following the close of the fiscal year for which the audit is made. The report shall set forth the scope of the audit and include such statements, together with the independent auditor's opinion of those statements, as are necessary to present fairly the Institute's assets and liabilities, surplus or deficit, with reasonable detail, including a statement of the Institute's income and expenses during the year, including a schedule of all contracts and grants requiring payments in excess of $5,000 and any payments of compensation, salaries, or fees at a rate in excess of $5,000 per year. The report shall be produced in sufficient copies for the public.

(i) The Institute and its directors, officers, employees, and agents shall be subject to the provisions of section 552 of title 5, United States Code (relating to freedom of information).

INDEPENDENCE AND LIMITATIONS

Sec. 1709.[10] (a) Nothing in this title may be construed as limiting the authority of the Office of Management and Budget to review and submit comments on the Institute's budget request at the time it is transmitted to the Congress.

(b) No political test or political qualification may be used in selecting, appointing, promoting, or taking any other personnel action with respect to any officer, employee, agent, or recipient of Institute funds or services or in selecting or monitoring any grantee, contractor, person, or entity receiving financial assistance under this title.

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[10] 22 U.S.C. 4608.

FUNDING

Sec. 1710.[11] (a) For the purpose of carrying out this title (except for paragraph (9) of section 1705(b)), there are authorized to be appropriated $10,000,000 for fiscal year 1989 [12]; $10,000,000 for fiscal year 1990; $10,000,000 for fiscal year 1991; $15,000,000 for fiscal year 1992; and $15,000,000 for fiscal year 1993.

(2) [12] Funds appropriated pursuant to paragraph (1) are authorized to remain available until expended.

(b) The Board of Directors may transfer to the legal entity authorized to be established under section 1704(c) any funds not obligated or expended from appropriations to the Institute for a fiscal year, and such funds shall remain available for obligation or expenditure for the purposes of such legal entity without regard to fiscal year limitations. Any use by such legal entity of appropriated funds shall be reported to each House of the Congress and to the President of the United States.

(c) Any authority provided by this title to enter into contracts shall be effective for a fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

DISSOLUTION OR LIQUIDATION

Sec. 1711.[13] Upon dissolution or final liquidation of the Institute or of any legal entity created pursuant to this title, all income and assets of the Institute or other legal entity shall revert to the United States Treasury.

REPORTING REQUIREMENT AND REQUIREMENT TO HOLD HEARINGS

Sec. 1712.[14] Beginning two years after the date of enactment of this title, and at intervals of two years thereafter, the Chairman of the Board shall prepare and transmit to the Congress and the President a report detailing the progress the Institute has made in carrying out the purposes of this title during the preceding two-year period. The President shall prepare and transmit to the Congress within a reasonable time after the receipt of such report the written comments and recommendations of the appropriate agencies of the United States with respect to the contents of such report and their recommendations with respect to any legislation which may be required concerning the Institute. After receipt of such report by the Congress, the Committee on Foreign Affairs and the

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[11] 22 U.S.C. 4609.

[12] Sec. 301 of Public Law 100-569 (102 Stat. 2863) authorized appropriations for fiscal years 1989 through 1993; struck out "Monies appropriated for the fiscal year 1985 shall remain available to the Institute through the fiscal year 1986." and inserted in lieu thereof paragraph (2).

Title IV of Public Law 100-436 (102 Stat. 1680 at 1713) provided "For necessary expenses of the United States Institute of Peace as authorized in the United States Institute of Peace Act, $7,000,000."

Sec. 1601 of Public Law 99-498 (100 Stat. 1268), replaced the years 1985 and 1986 with 1987 and 1988, authorizing appropriations of $6,000,000 for fiscal year 1987 and $10,000,000 for fiscal year 1988.

Title IV of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1988 (sec. 101(h) of the Continuing Appropriations for 1988, Public Law 100-202, 101 Stat. 1329), also provided the following for fiscal year 1988 for the "United States Institute of Peace": $4,308,000.

[13] 22 U.S.C. 4610.

[14] 22 U.S.C. 4611.

Committee on Education and Labor of the House of Representatives and the Committee on Foreign Relations and the Committee on Labor and Human Resources of the Senate shall hold hearings to review the findings and recommendations of such report and the written comments received from the President.

3. Diplomatic Security and Anti-Terrorism

a. Anti-Terrorism Act of 1987

Partial text of Public Law 100-204 [Foreign Relations Authorization Act, Fiscal Years 1988 and 1989; H.R. 1777], 101 Stat. 1406, approved December 22, 1987

AN ACT To authorize appropriations for fiscal years 1988 and 1989 for the Department of State, the U.S. Information Agency, the Voice of America, the Board for International Broadcasting, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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TITLE X—ANTI-TERRORISM ACT OF 1987

SEC. 1001. SHORT TITLE.

This title may be cited as the "Anti-Terrorism Act of 1987".

SEC. 1002.[1] FINDINGS; DETERMINATIONS.

(a) FINDINGS.—The Congress finds that—

(1) Middle East terrorism accounted for 60 percent of total international terrorism in 1985;

(2) the Palestine Liberation Organization (hereafter in this title referred to as the "PLO") was directly responsible for the murder of an American citizen on the Achille Lauro cruise liner in 1985, and a member of the PLO's Executive Committee is under indictment in the United States for the murder of that American citizen;

(3) the head of the PLO has been implicated in the murder of a United States Ambassador overseas;

(4) the PLO and its constituent groups have taken credit for, and been implicated in, the murders of dozens of American citizens abroad;

(5) the PLO covenant specifically states that "armed struggle is the only way to liberate Palestine, thus it is an overall strategy, not merely a tactical phase";

(6) the PLO rededicated itself to the "continuing struggle in all its armed forms" at the Palestine National Council meeting in April 1987; and

(7) the Attorney General has stated that "various elements of the Palestine Liberation Organization and its allies and affiliates are in the thick of international terror".

(b) DETERMINATIONS.—Therefore, the Congress determines that the PLO and its affiliates are a terrorist organization and a threat to the interests of the United States, its allies, and to international law and should not benefit from operating in the United States.

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[1] 22 U.S.C. 5201.

SEC. 1003.[2] PROHIBITIONS REGARDING THE PLO.

It shall be unlawful, if the purpose be to further the interests of the Palestine Liberation Organization or any of its constituent groups, any successor to any of those, or any agents thereof, on or after the effective date of this title—

(1) to receive anything of value except informational material from the PLO or any of its constituent groups, any successor thereto, or any agents thereof;

(2) to expend funds from the PLO or any of its constituent groups, any successor thereto, or any agents thereof; or

(3) notwithstanding any provision of law to the contrary, to establish or maintain an office, headquarters, premises, or other facilities or establishments within the jurisdiction of the United States at the behest or direction of, or with funds provided by the Palestine Liberation Organization or any of its constituent groups, any successor to any of those, or any agents thereof.

SEC. 1004.[3] ENFORCEMENT.

(a) ATTORNEY GENERAL.—The Attorney General shall take the necessary steps and institute the necessary legal action to effectuate the policies and provisions of this title.

(b) RELIEF.—Any district court of the United States for a district in which a violation of this title occurs shall have authority, upon petition of relief by the Attorney General, to grant injunctive and such other equitable relief as it shall deem necessary to enforce the provisions of this title.

SEC. 1005. EFFECTIVE DATE.

(a) EFFECTIVE DATE.—Provisions of this title shall take effect 90 days after the date of enactment of this Act.

(b) TERMINATION.—The provisions of this title shall cease to have effect if the President certifies in writing to the President pro tempore of the Senate and the Speaker of the House that the Palestine Liberation Organization, its agents, or constituent groups thereof no longer practice or support terrorist actions anywhere in the world.

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[2] 22 U.S.C. 5202.

[3] 22 U.S.C. 5203.

b. Omnibus Diplomatic Security and Antiterrorism Act of 1986

Partial text of Public Law 99-399 [H.R. 4151], 100 Stat. 853, approved August 27, 1986, as amended by Public Law 99-529 [Special Foreign Assistance Act of 1986, S. 1917], 100 Stat. 3010, approved October 24, 1986; by Public Law 100-204 [Foreign Relations Authorization Act, Fiscal Years 1988 and 1989; H.R. 1777], 101 Stat. 1331, approved December 22, 1987; Public Law 100-202 [Continuing Appropriations Act, 1988; H.J. Res. 395], 101 Stat. 1329, approved December 22, 1987; and by Public Law 100-461 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989, H.R. 4637], 102 Stat. 2268, approved October 1, 1988

AN ACT To provide enhanced diplomatic security and combat international terrorism, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,[1]

SECTION 1. SHORT TITLE.

This Act may be cited as the "Omnibus Diplomatic Security and Antiterrorism Act of 1986".

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TITLE I—DIPLOMATIC SECURITY

SEC. 101. SHORT TITLE.

Titles I through IV of this Act may be cited as the "Diplomatic Security Act".

SEC. 102.[2] FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds and declares that—

(1) the United States has a crucial stake in the presence of United States Government personnel representing United States interests abroad;

(2) conditions confronting United States Government personnel and missions abroad are fraught with security concerns which will continue for the foreseeable future; and

(3) the resources now available to counter acts of terrorism and protect and secure United States Government personnel and missions abroad, as well as foreign officials and missions in the United States, are inadequate to meet the mounting threat to such personnel and facilities.

(b) PURPOSES.—The purposes of titles I through IV are—

(1) to set forth the responsibility of the Secretary of State with respect to the security of diplomatic operations in the United States and abroad;

(2) to provide for an Assistant Secretary of State to head the Bureau of Diplomatic Security of the Department of State, and

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[2] 22 U.S.C. 4801.

to set forth certain provisions relating to the Diplomatic Security Service of the Department of State;

(3) to maximize coordination by the Department of State with Federal, State, and local agencies and agencies of foreign governments in order to enhance security programs;

(4) to promote strengthened security measures and to provide for the accountability of United States Government personnel with security-related responsibilities; and

(5) to provide authorization of appropriations for the Department of State to carry out its responsibilities in the area of security and counterterrorism, and in particular to finance the acquisition and improvements of United States Government missions abroad, including real property, buildings, facilities, and communications, information, and security systems.

SEC. 103.[3] RESPONSIBILITY OF THE SECRETARY OF STATE

(a) SECURITY FUNCTIONS.—The Secretary of State shall develop and implement (in consultation with the heads of other Federal agencies having personnel or missions abroad where appropriate and within the scope of the resources made available) policies and programs, including funding levels and standards, to provide for the security of United States Government operations of a diplomatic nature and foreign government operations of a diplomatic nature in the United States. Such policies and programs shall include—

(1) protection of all United States Government personnel on official duty abroad (other than those personnel under the command of a United States area military commander) and their accompanying dependents;

(2) establishment and operation of security functions at all United States Government missions abroad (other than facilities or installations subject to the control of a United States area military commander);

(3) establishment and operation of security functions at all Department of State facilities in the United States; and

(4) protection of foreign missions, international organizations, and foreign officials and other foreign persons in the United States, as authorized by law.

(b) OVERSIGHT OF POSTS ABROAD.—The Secretary of State shall—

(1) have full responsibility for the coordination of all United States Government personnel assigned to diplomatic or consular posts or other United States missions abroad pursuant to United States Government authorization (except for facilities, installations, or personnel under the command of a United States area military commander);

(2) establish appropriate overseas staffing levels for all such posts or missions for all Federal agencies with activities abroad (except for personnel and activities under the command of a United States area military commander or regional inspector

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[3] 22 U.S.C. 4802. Sec. 302 of the Department of State Appropriations Act, 1989 (Public Law 100–459, 102 Stat. 2207) provided the following:

"SEC. 302. The Secretary of State shall report to the appropriate committees of the Congress on the obligation of funds provided for diplomatic security and related expenses every month."

general offices under the jurisdiction of the Inspector General, Agency for International Development).[4]

(c) Federal Agency.—As used in this title and title III, the term "Federal agency" includes any department or agency of the United States Government.

SEC. 104.[5] BUREAU OF DIPLOMATIC SECURITY

(a) The Bureau.—There shall be a Bureau of Diplomatic Security in the Department of State, to be headed by the Assistant Secretary for Diplomatic Security. The Assistant Secretary shall be responsible for such functions as may be directed by the Secretary of State.

(b) Number of Assistant Secretaries.—* * *

(c) Positions at Level IV of the Executive Schedule.—Section 5315 of title 5, United States Code, is amended by striking out "(14)" following "Assistant Secretaries of State" and inserting in lieu thereof "(15)".

SEC. 105.[6] RESPONSIBILITIES OF THE ASSISTANT SECRETARY FOR DIPLOMATIC SECURITY.

Within the authority of the Secretary of State, the Assistant Secretary for Diplomatic Security should be responsible for the following:

(1) Former office of security functions.—Functions and responsibilities exercised by the Office of Security, Department of State, before November 11, 1985.

(2) Security and protective operations abroad.—

(A) Establishment and operation of post security and protective functions abroad.

(B) Development and implementation of communications, computer, and information security.

(C) Emergency planning.

(D) Establishment and operation of local guard services.

(E) Supervision of the United States Marine Corps security guard program.

(F) Liaison with American overseas private sector security interests.

(3) Security and protective operations in the United States.—

(A) Protection of foreign missions and international organizations, foreign officials, and diplomatic personnel, as authorized by law.

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[4] Sec. 201 of The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100-461, 102 Stat. 2268) added text after "commander", and struck out paragraph (3), added by the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, at this point. Paragraph (3) read as follows:

"(3) establish, notwithstanding any other provision of law, appropriate overseas staffing levels of the Regional Offices of the Inspector General of the Agency for International Development in effective consultation with the Inspector General of the Agency: *Provided*, That the authority of the Secretary of State shall be exercised only by the Secretary and shall not be delegated to a subordinate officer of the Department of State: *Provided further*, That the Inspector General must report to the appropriate committees of both Houses of the Congress within thirty days the denial by the Secretary of State of a request by the Inspector General to increase or reduce an existing position level of a regional office: *Provided further*, That the total number of positions authorized for the Office of the Inspector General in Washington and overseas shall be determined by the Inspector General within the limitation of the appropriations level provided."

[5] 22 U.S.C. 4803.

[6] 22 U.S.C. 4804.

(B) Protection of the Secretary of State and other persons designated by the Secretary of State, as authorized by law.

(C) Physical protection of Department of State facilities, communications, and computer and information systems.

(D) Conduct of investigations relating to protection of foreign officials and diplomatic personnel and foreign missions, suitability for employment, employee security, illegal passport and visa issuance or use, and other investigations, as authorized by law.

(E) Carrying out the rewards program for information concerning international terrorism authorized by section 36(a) of the State Department Basic Authorities Act of 1956.

(F) Performance of other security, investigative, and protective matters as authorized by law.

(4) COUNTERTERRORISM PLANNING AND COORDINATION.—Development and coordination of counterterrorism planning, emergency action planning, threat analysis programs, and liaison with other Federal agencies to carry out this paragraph.

(5) SECURITY TECHNOLOGY.—Development and implementation of technical and physical security programs, including security-related construction, radio and personnel security communications, armored vehicles, computer and communications security, and research programs necessary to develop such measures.

(6) DIPLOMATIC COURIER SERVICE.—Management of the diplomatic courier service.

(7) PERSONNEL TRAINING.—Development of facilities, methods, and materials to develop and upgrade necessary skills in order to carry out this section.

(8) FOREIGN GOVERNMENT TRAINING.—Management and development of antiterrorism assistance programs to assist foreign government security training which are administered by the Department of State under chapter 8 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2349aa et seq.).

SEC. 106.[7] COOPERATION OF OTHER FEDERAL AGENCIES.

(a) ASSISTANCE.—In order to facilitate fulfillment of the responsibilities described in section 103(a), other Federal agencies shall cooperate (through agreements) to the maximum extent possible with the Secretary of State. Such agencies may, with or without reimbursement, provide assistance to the Secretary, perform security inspections, provide logistical support relating to the differing missions and facilities of other Federal agencies, and perform other overseas security functions as may be authorized by the Secretary. Specifically, the Secretary may agree to delegate operational control of overseas security functions of other Federal agencies to the heads of such agencies, subject to the Secretary's authority as set forth in section 103(a). The agency head receiving such delegated authority shall be responsible to the Secretary in the exercise of the delegated operational control.

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[7] 22 U.S.C. 4805.

(b) **Other Agencies.**—Nothing contained in titles I through IV shall be construed to limit or impair the authority or responsibility of any other Federal, State, or local agency with respect to law enforcement, domestic security operations, or intelligence activities as defined in Executive Order 12333.

(c) **Certain Lease Arrangements.**—The Administrator of General Services is authorized to lease (to such extent or in cash amounts as are provided in appropriation Acts) such amount of space in the United States as may be necessary for the Department of State to accommodate the personnel required to carry out this title. The Department of State shall pay for such space at the rate established by the Administrator of General Services for space and related services.

SEC. 107. PROTECTION OF FOREIGN CONSULATES.

The Chief of Protocol of the Department of State shall consult with the Assistant Secretary of Diplomatic Security in making determinations with respect to accreditation of all foreign consular personnel in the United States.

TITLE II—DIPLOMATIC SECURITY SERVICE

SEC. 201.[8] ESTABLISHMENT OF DIPLOMATIC SECURITY SERVICE.

There shall be, within the Bureau of Diplomatic Security, the Diplomatic Security Service. The Diplomatic Security Service shall perform such functions as may be assigned to it by the Secretary of State.

SEC. 202.[9] DIRECTOR OF DIPLOMATIC SECURITY SERVICE.

The Diplomatic Security Service shall be headed by a Director designated by the Secretary of State. The Director should be a career member of the Senior Foreign Service or the Senior Executive Service and shall be qualified for the position by virtue of demonstrated ability in the areas of security, law enforcement, management, and public administration. Experience in management or operations abroad shall be considered an affirmative factor in the selection of the Director. The Director shall act under the supervision and direction of the Assistant Secretary for Diplomatic Security.

SEC. 203.[10] POSITIONS IN THE DIPLOMATIC SECURITY SERVICE.

Positions in the Diplomatic Security Service shall be filled in accordance with the provisions of the Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.) and title 5, United States Code. In filling such positions, the Secretary of State shall actively recruit women and members of minority groups. The Secretary of State shall prescribe the qualifications required for assignment or appointment to such positions. In the case of positions designated for special agents, the qualifications may include minimum and maximum entry age restrictions and other physical standards and shall incorporate such standards as may be required by law in order to perform security functions, to bear arms, and to exercise investigatory, warrant, arrest, and such other authorities, as are available by law to special agents of the Department of State and the Foreign Service.

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[8] 22 U.S.C. 4821.
[9] 22 U.S.C. 4822.
[10] 22 U.S.C. 4823.

TITLE III—PERFORMANCE AND ACCOUNTABILITY

SEC. 301.[11] ACCOUNTABILITY REVIEW.

In any case of serious injury, loss of life, or significant destruction of property at or related to a United States Government mission abroad, and in any case of a serious breach of security involving intelligence activities of a foreign government directed at a United States Government mission abroad, which is covered by the provisions of titles I through IV (other than a facility or installation subject to the control of a United States area military commander), the Secretary of State shall convene an Accountability Review Board (hereafter in this title referred to as the "Board"). With respect to breaches of security involving intelligence activities, the Secretary of State may delay establishing an Accountability Review Board if, after consultation with the Chairman of the Select Committee on Intelligence of the Senate and the Chairman of the Permanent Select Committee on Intelligence of the House of Representatives, the Secretary determines that doing so would compromise intelligence sources and methods. The Secretary shall promptly advise the Chairmen of such committees of each determination pursuant to this section to delay the establishment of an Accountability Review Board. The Secretary shall not convene a Board where the Secretary determines that a case clearly involves only causes unrelated to security.

SEC. 302.[12] ACCOUNTABILITY REVIEW BOARD.

(a) MEMBERSHIP.—A Board shall consist of five members, 4 appointed by the Secretary of State, and 1 appointed by the Director of Central Intelligence. The Secretary of State shall designate the Chairperson of the Board. Members of the Board who are not Federal officers or employees shall each be paid at a rate not to exceed the maximum rate of basic pay payable for level GS–18 of the General Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Board. Members of the Board who are Federal officers or employees shall receive no additional pay by reason of such membership.

(b) FACILITIES, SERVICES, SUPPLIES, AND STAFF.—

(1) SUPPLIED BY DEPARTMENT OF STATE.—A Board shall obtain facilities, services, and supplies through the Department of State. All expenses of the Board, including necessary costs of travel, shall be paid by the Department of State. Travel expenses authorized under this paragraph shall be paid in accordance with subchapter I of chapter 57 of title 5, United States Code or other applicable law.

(2) DETAIL.—At the request of a Board, employees of the Department of State or other Federal agencies, members of the

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[11] 22 U.S.C. 4831. The phrase in the first sentence of sec. 301 beginning "and in any case of serious breach of security" and ending in "mission abroad" and the sentences beginning "With respect to breaches of security" and ending with "Accountability Review Board." were added by sec. 156(a) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100–204, 101 Stat. 1354).

[12] 22 U.S.C. 4832.

Foreign Service, or members of the uniformed services may be temporarily assigned, with or without reimbursement, to assist the Board.

(3) Experts and consultants.—A Board may employ and compensate (in accordance with section 3109 of title 5, United States Code) such experts and consultants as the Board considers necessary to carry out its functions. Experts and consultants so employed shall be responsible solely to the Board.

SEC. 303.[13] PROCEDURES.

(a) Evidence.—

(1) United states government personnel and contractors.—

(A) With respect to any individual described in subparagraph (B), a Board may—

(i) administer oaths and affirmations;

(ii) require that depositions be given and interrogatories answered; and

(iii) require the attendance and presentation of testimony and evidence by such individual.

Failure of any such individual to comply with a request of the Board shall be grounds for disciplinary action by the head of the Federal agency in which such individual is employed or serves, or in the case of a contractor, debarment.

(B) The individuals referred to in subparagraph (A) are—

(i) employees as defined by section 2105 of title 5, United States Code (including members of the Foreign Service);

(ii) members of the uniformed services as defined by section 101(3) of title 37, United States Code;

(iii) employees of instrumentalities of the United States; and

(iv) individuals employed by any person or entity under contract with agencies or instrumentalities of the United States Government to provide services, equipment, or personnel.

(2) Other persons.—With respect to a person who is not described in paragraph (1)(B), a Board may administer oaths and affirmations and require that depositions be given and interrogatories answered.

(3) Subpoenas.—(A) The Board may issue a subpoena for the attendance and testimony of any person (other than a person described in clause (i), (ii), or (iii) of paragraph (1)(B)) and the production of documentary or other evidence from any such person if the Board finds that such a subpoena is necessary in the interests of justice for the development of relevant evidence.

(B) In the case of contumacy of refusal to obey a subpoena issued under this paragraph, a court of the United States within the jurisdiction of which a person is directed to appear or produce information, or within the jurisdiction of which the person is found, resides, or transacts business, may upon application of the Attorney General, issue to such person an order requiring such person to appear before the Board to give testimony or produce information as required by the subpoena.

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[13] 22 U.S.C. 4833.

(C) Subpoenaed witnesses shall be paid the same fee and mileage allowances which are paid subpoenaed witnesses in the courts of the United States.

(b) CONFIDENTIALITY.—A Board shall adopt for administrative proceedings under this title such procedures with respect to confidentiality as may be deemed necessary, including procedures relating to the conduct of closed proceedings or the submission and use of evidence in camera, to ensure in particular the protection of classified information relating to national defense, foreign policy, or intelligence matters. The Director of Central Intelligence shall establish the level of protection required for intelligence information and for information relating to intelligence personnel, including standards for secure storage.

(c) RECORDS.—Records pertaining to administrative proceedings under this title shall be separated from all other records of the Department of State and shall be maintained under appropriate safeguards to preserve confidentiality and classification of information. Such records shall be prohibited from disclosure to the public until such time as a Board completes its work and is dismissed. The Department of State shall turn over to the Director of Central Intelligence intelligence information and information relating to intelligence personnel which shall then become records of the Central Intelligence Agency. After that time, only such exemptions from disclosure under section 552(b) of title 5, United States Code (relating to freedom of information), as apply to other records of the Department of State, and to any information transmitted under section 304(c) to the head of a Federal agency or instrumentality, shall be available for the remaining records of the Board.

(d) STATUS OF BOARDS.—The provisions of the Federal Advisory Committee Act (5 U.S.C. App. 1 et seq.) and section 552b of title 5 of the United States Code (relating to open meetings) shall not apply to any Board.

SEC. 304.[14] FINDINGS AND RECOMMENDATIONS BY A BOARD.

(a) FINDINGS.—A Board convened in any case shall examine the facts and circumstances surrounding the serious injury, loss of life, or significant destruction of property at or related to a United States Government mission abroad or surrounding the serious breach of security involving intelligence activities of a foreign government directed at a United States Government mission abroad (as the case may be) and shall make written findings determining—

(1) the extent to which the incident or incidents with respect to which the Board was convened was security related;

(2) whether the security systems and security procedures at that mission were adequate;

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[14] 22 U.S.C. 4834. The words "or surrounding the serious breach of security involving intelligence activities of a foreign government directed at a United States Government mission abroad (as the case may be)" in subsec. (a) were added by sec. 156(b) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100–204, 101 Stat. 1354).

(3) whether the security systems and security procedures were properly implemented;

(4) the impact of intelligence and information availability; and

(5) such other facts and circumstances which may be relevant to the appropriate security management of United States missions abroad.

(b) PROGRAM RECOMMENDATIONS.—A Board shall submit its findings (which may be classified to the extent deemed necessary by the Board) to the Secretary of State, together with recommendations as appropriate to improve the security and efficiency of any program or operation which the Board has reviewed.

(c) PERSONNEL RECOMMENDATIONS.—Whenever a Board finds reasonable cause to believe that an individual described in section 303(a)(1)(B) has breached the duty of that individual, the Board shall—

(1) notify the individual concerned,

(2) transmit the finding of reasonable cause, together with all information relevant to such finding, to the head of the appropriate Federal agency or instrumentality, and

(3) recommend that such agency or instrumentality initiate an appropriate investigatory or disciplinary action.

In determining whether an individual has breached a duty of that individual, the Board shall take into account any standard of conduct, law, rule, regulation, contract, or order which is pertinent to the performance of the duties of that individual.

(d) REPORTS.—

(1) PROGRAM RECOMMENDATIONS.—In any case in which a Board transmits recommendations to the Secretary of State under subsection (b), the Secretary shall, not later than 90 days after the receipt of such recommendations, submit a report to the Congress on each such recommendation and the action taken with respect to that recommendation.

(2) PERSONNEL RECOMMENDATIONS.—In any case in which a Board transmits a finding of reasonable cause under subsection (c), the head of the Federal agency or instrumentality receiving the information shall review the evidence and recommendations and shall, not later than 30 days after the receipt of that finding, transmit to the Congress a report specifying—

(A) the nature of the case and a summary of the evidence transmitted by the Board; and

(B) the decision by the Federal agency or instrumentality, to take disciplinary or other appropriate action against that individual or the reasons for deciding not to take disciplinary or other action with respect to that individual.

SEC. 305.[15] RELATION TO OTHER PROCEEDINGS.

Nothing in this title shall be construed to create administrative or judicial review remedies or rights of action not otherwise available by law, nor shall any provision of this title be construed to deprive any person of any right or legal defense which would otherwise be available to that person under any law, rule, or regulation.

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[15] 22 U.S.C. 4835

TITLE IV—DIPLOMATIC SECURITY PROGRAM

SEC. 401.[16] AUTHORIZATION.

(a) DIPLOMATIC SECURITY PROGRAM.—

(1) IN GENERAL.—In addition to amounts otherwise available for such purposes, the following amounts are authorized to be appropriated for fiscal years 1986 and 1987, for the Department of State to carry out diplomatic security construction, acquisition, and operations pursuant to the Department of State's Supplemental Diplomatic Security Program, as justified to the Congress for the respective fiscal year for "Administration of Foreign Affairs," as follows:

(A) For "Salaries and Expenses," $308,104,000.

(B) For "Acquisition and Maintenance of Buildings Abroad," $857,806,000.

(C) For "Counterterrorism Research and Development," $15,000,000.

(2) ANTITERRORISM ASSISTANCE.—* * *.

(3) CAPITAL CONSTRUCTION, FISCAL YEARS 1988 THROUGH 1990.—There is authorized to be appropriated for the Department of State for "Acquisition and Maintenance of Buildings Abroad" for each of the fiscal years 1988 through 1990, $417,962,000 to carry out diplomatic security construction, acquisition, and operations pursuant to the Department of State's Supplemental Diplomatic Security Program. Authorizations of appropriations under this paragraph shall remain available until the appropriations are made.[17]

(4) ALLOCATION OF AMOUNTS AUTHORIZED TO BE APPROPRIATED.—Amounts authorized to be appropriated by this subsection, and by the amendment made by paragraph (2), shall be allocated as provided in the table entitled "Diplomatic Security Program" relating to this section which appears in the Joint Explanatory Statement of the Committee of Conference to accompany H.R. 4151 of the 99th Congress (the Omnibus Diplomatic Security and Antiterrorism Act of 1986).

(b) NOTIFICATION TO AUTHORIZING COMMITTEES OF REQUESTS FOR APPROPRIATIONS.—In any fiscal year, whenever the Secretary of State submits to the Congress a request for appropriations to carry out the program described in subsection (a), the Secretary shall notify the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate of such request, together with a justification of each item listed in such request.

(c) REPROGRAMMING TREATMENT.—Amounts made available for capital projects pursuant to subsection (a) shall be treated as a reprogramming of funds under section 34 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2706) and shall not be available for obligation or expenditure except in compliance with the procedures applicable to such reprogramming.

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[16] 22 U.S.C. 4851.

[17] The final sentence of subsec. (3) was added by sec. 101(c) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204, 101 Stat. 1336).

(d) Prohibition on Reallocations of Authorizations.—Section 24(d) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2692(d)) shall not apply with respect to any amounts authorized to be appropriated under this section.

(e) Security Requirements of Other Foreign Affairs Agencies.—Based solely on security requirements and within the total amount of funds available for security, the Secretary of State shall ensure that an equitable level of funding is provided for the security requirements of other foreign affairs agencies.

(f) Insufficiency of Funds.—In the event that sufficient funds are not available in any fiscal year for all of the diplomatic security construction, acquisition, and operations pursuant to the Department of State's Supplemental Diplomatic Security Program, as justified to the Congress for such fiscal year, the Secretary of State shall report to the Congress the effect that the insufficiency of funds will have with respect to the Department of State and each of the other foreign affairs agencies.

(g) Allocation of Funds for Certain Security Programs.—Of the amount of funds authorized to be appropriated by subsection (a)(1)(A), $34,537,000 shall be available to the Secretary of State only for the protection of classified office equipment, the expansion of information systems security, and the hiring of American systems managers and operators for computers at high threat locations.

(h) Furniture, Furnishings, and Equipment.

(1) Use of existing furniture, furnishings, and equipment.—If physically possible, facilities constructed or acquired pursuant to subsection (a) shall be furnished and equipped with the furniture, furnishings, and equipment that were being used in the facilities being replaced, rather than with newly acquired furniture, furnishings, and equipment.

(2)* * *.

(3) Reprogramming treatment.—Amounts made available for furniture, furnishings, and equipment pursuant to subsection (a) shall be treated as a reprogramming of funds under section 34 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2706) and shall not be available for obligation or expenditure except in compliance with the procedures applicable to such reprogramming.

SEC. 402.[18] DIPLOMATIC CONSTRUCTION PROGRAM.

(a) Preference for United States Contractors.—Notwithstanding section 11 of the Foreign Service Buildings Act, 1926, and where adequate competition exists, only United States persons and qualified United States joint venture persons may—

(1) bid on a diplomatic construction or design project which has an estimated total project value exceeding $5,000,000; and

(2) bid on a diplomatic construction or design project which involves physical or technical security.

(b) Exception.—Subsection (a) shall not apply with respect to any diplomatic construction or design project in a foreign country whose statutes prohibit the use of United States contractors on such projects. The exception contained in this subsection shall only become effective with respect to a foreign country 30 days after the Secretary of State certifies to the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate what specific actions he has taken to urge such foreign country to permit the use of United States contractors on such projects, and what actions he shall take with respect to that country as authorized by title II of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4301 et seq.; commonly referred to as the "Foreign Missions Act").

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[18] 22 U.S.C. 4852.

(c) DEFINITIONS.—For the purposes of this section—

(1) the term "adequate competition" means with respect to a construction or design project, the presence of two or more qualified bidders submitting responsive bids for that project;

(2) the term "United States person" means a person which—

(A) is incorporated or legally organized under the laws of the United States, including State, the District of Columbia, and local laws;

(B) has its principal place of business in the United States;

(C) has been incorporated or legally organized in the United States—

(i) for more than 5 years before the issuance date of the invitation for bids or request for proposals with respect to a construction project under subsection (a)(1); and

(ii) for more than 2 years before the issuance date of the invitation for bids or request for proposals with respect to a construction or design project which involves physical or technical security under subsection (a)(2);

(D) has performed within the United States administrative and technical, professional, or construction services similar in complexity, type of construction, and value to the project being bid;

(E) with respect to a construction project under subsection (a)(1), has achieved total business volume equal to or greater than the value of the project being bid in 3 years of the 5-year period before the date specified in subparagraph (C)(i);

(F)(i) employs United State citizens in at least 80 percent of its principal management positions in the United States,

(ii) employs United States citizens in more than half of its permanent, full-time positions in the United States, and

(iii) will employ United States citizens in at least 80 percent of the supervisory positions on the foreign buildings office project site; and

(G) has the existing technical and financial resources in the United States to perform the contract; and

(3) the term "qualified United States joint venture person" means a joint venture in which a United States person or persons owns at least 51 percent of the assets of the joint venture.

(d) AMERICAN MINORITY CONTRACTORS.—Not less than 10 percent of the amount appropriated pursuant to section 401(a) for diplomatic construction or design projects each fiscal year shall be allocated to the extent practicable for contracts with American minority contractors.

(e) AMERICAN SMALL BUSINESS CONTRACTORS.—Not less than 10 percent of the amount appropriated pursuant to section 401(a) for diplomatic construction or design projects each fiscal year shall be allocated to the extent practicable for contracts with American small business contractors.

(f) LIMITATION ON SUBCONTRACTING.—With respect to a diplomatic construction project, a prime contractor may not subcontract more than 50 percent of the total value of its contract for that project.

SEC. 403.[19] SECURITY REQUIREMENTS FOR CONTRACTORS.

Not later than 90 days after the date of enactment of this Act, the Secretary of State shall issue regulations to—

(1) strengthen the security procedures applicable to contractors and subcontractors involved in any way with any diplomatic construction or design project; and

(2) permit a contractor or subcontractor to have access to any design or blueprint relating to such a project only in accordance with those procedures.

SEC. 404.[20] QUALIFICATIONS OF PERSONS HIRED FOR THE DIPLOMATIC CONSTRUCTION PROGRAM.

In carrying out the diplomatic construction program referred to in section 401(a), the Secretary of State shall employ as professional staff (by appointment, contract, or otherwise) only those persons with a demonstrated specialized background in the fields of construction law, or contract management. In filling such positions, the Secretary shall actively recruit women and members of minority groups.

SEC. 405.[21] COST OVERRUNS.

Any amount required to complete any capital project described in the Department of State's Supplemental Diplomatic Security Program, as justified to the Congress for the respective fiscal year, which is in excess of the amount made available for that project pursuant to section 401(a) (1) or (3) shall be treated as a reprogramming of funds under section 34 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2706) and shall not be available for obligation or expenditure except in compliance with the procedures applicable to such reprogrammings.

SEC. 406.[22] EFFICIENCY IN CONTRACTING.

(a) BONUSES AND PENALTIES.—The Director of the Office of Foreign Buildings shall provide for a contract system of bonuses and penalties for the diplomatic construction program funded pursuant to the authorizations of appropriations provided in this title. Not later than 3 months after the date of enactment of this Act, the

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[19] 22 U.S.C. 4853.

[20] 22 U.S.C. 4854.

[21] 22 U.S.C. 4855.

[22] 22 U.S.C. 4856.

Director shall submit a report to the Congress on the implementation of this section.

(b) SURETY BONDS AND GUARANTEES.—The Director of the Office of Foreign Buildings shall require each person awarded a contract for work under the diplomatic construction program to post a surety bond or guarantee, in such amount as the Director may determine, to assure performance under such contract.

(c) DISQUALIFICATION OF CONTRACTORS.—No person doing business with Libya may be eligible for any contract awarded pursuant to this Act.

SEC. 407.[23] ADVISORY PANEL ON OVERSEAS SECURITY.

Not later than 90 days after the date of enactment of this Act, the Secretary of State shall submit a report to the Congress on the implementation of the 91 recommendations contained in the final report of the Advisory Panel on Overseas Security. If any such recommendation has been rejected, the Secretary shall provide the reasons why that recommendation was rejected.

SEC. 408.[24] TRAINING TO IMPROVE PERIMETER SECURITY AT UNITED STATES DIPLOMATIC MISSIONS ABROAD.

(a) TRAINING.—It is the sense of Congress that the President should use the authority under chapter 8 of title II of the Foreign Assistance Act of 1976 (relating to antiterrorism assistance) to improve perimeter security of United States diplomatic missions abroad.

(b) REPORTS.—Not later than October 1 of each year, the President shall submit a report to the Congress on the progress and problems of improving perimeter security of United States diplomatic missions abroad.

SEC. 409.[25] PROTECTION OF PUBLIC ENTRANCES OF UNITED STATES DIPLOMATIC MISSIONS ABROAD.

The Secretary of State shall install and maintain a walk-through metal detector or other advanced screening system at public entrances of each United States diplomatic mission abroad.

SEC. 410. CERTAIN PROTECTIVE FUNCTIONS.

Section 208(a) of title 3, United States Code, is amended by adding at the end thereof the following: "In carrying out any duty under section 202(7), the Secretary of State is authorized to utilize any authority available to the Secretary under title II of the State Department Basic Authorities Act of 1956.".

SEC. 411.[26] REIMBURSEMENT OF THE DEPARTMENT OF THE TREASURY.

The Secretary of State shall reimburse the appropriate appropriations account of the Department of the Treasury out of funds appropriated pursuant to section 401(a)(1) for the actual costs incurred by the United States Secret Service, as agreed to by the Secretary of the Treasury, for providing protection for the spouses of foreign heads of state during fiscal years 1986 and 1987.

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[23] 22 U.S.C. 4857.

[24] 22 U.S.C. 4858.

[25] 22 U.S.C. 4859.

[26] 22 U.S.C. 4860.

SEC. 412. INSPECTOR GENERAL FOR THE UNITED STATES INFORMATION AGENCY.

(a) * * *.

(b) EARMARK.—Of the funds authorized to be appropriated to the United States Information Agency for the fiscal year 1987, not less than $3,000,000 shall be available only for the operation of the office of the Inspector General established by the amendment made by subsection (a).

(c) POSITION AT LEVEL IV OF THE EXECUTIVE SCHEDULE.—Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following:

"Inspector General, United States Information Agency.".

SEC. 413.[27] INSPECTOR GENERAL FOR THE DEPARTMENT OF STATE.

(a) DIRECTION TO ESTABLISH.—The Congress directs the Secretary of State to proceed immediately to establish an Office of Inspector General of the Department of State not later than October 1, 1986. Not later than January 31, 1987, the Secretary of State shall submit a report to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives on the progress of establishing that office. Such report shall include an accounting of the obligation of funds for fiscal year 1987 for that office.

(b) DUTIES AND RESPONSIBILITIES.—The Inspector General of the Department of State (as established by the amendment made by section 150(a) of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987) is authorized to perform all duties and responsibilities, and to exercise the authorities, stated in section 209 of the Foreign Service Act of 1980 (22 U.S.C. 3929) and in the Inspector General Act of 1978.

(c) EARMARK.—Of the amounts made available for fiscal year 1987 for salaries and expenses under the heading "Administration of Foreign Affairs", not less than $6,500,000 shall be used for the sole purpose of establishing and maintaining the Office of Inspector General of the Department of State.

(d) LIMITATION ON APPOINTMENT.—No career member of the Foreign Service, as defined by section 103 of the Foreign Service Act of 1980 (22 U.S.C. 3903), may be appointed Inspector General of the Department of State.

(e) POSITION AT LEVEL IV OF THE EXECUTIVE SCHEDULE.—Section 5315 of title 5, United States Code (as amended by section 412), is amended by adding at the end thereof the following:

"Inspector General, Department of State.".

(6)[28] * * * [Repealed—1986]

(b)[29] OFFICE OF POLICY AND PROGRAM REVIEW.— * * * [Repealed— 1987]

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[27] 22 U.S.C. 4861. Sec. 134 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204, 101 Stat. 1331), redesignated former subsecs. (1) through (5) as (a) through (e).

[28] Paragraph (6) was repealed by sec. 405 of Public Law 99-529 (100 Stat. 3010).

[29] Former subsec. (b) was repealed by sec. 134 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204, 101 Stat. 1344). Subsec. (b) established an Office of Policy and Program Review.

(c) * * *.

SEC. 414.[30] PROHIBITION ON THE USE OF FUNDS FOR FACILITIES IN ISRAEL, JERUSALEM, OR THE WEST BANK.

None of the funds authorized to be appropriated by this Act may be obligated or expended for site acquisition, development, or construction of any facility in Israel, Jerusalem, or the West Bank.

TITLE V—STATE DEPARTMENT AUTHORITIES TO COMBAT INTERNATIONAL TERRORISM

SEC. 501.[31] REWARDS FOR INTERNATIONAL TERRORISTS.

It is the sense of the Congress that the Secretary of State should more vigorously utilize the moneys available under section 36(a) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708(a); relating to rewards for information on international terrorism) to more effectively apprehend and prosecute international terrorists. It is further the sense of the Congress that the Secretary of State should consider widely publicizing the sizable rewards available under present law so that major international terrorist figures may be brought to justice.

SEC. 502.* * *.

SEC. 503.* * *.

SEC. 504.* * *.

SEC. 505.[32] TERRORISM-RELATED TRAVEL ADVISORIES.

The Secretary of State shall promptly advise the Congress whenever the Department of State issues a travel advisory, or other public warning notice for United States citizens traveling abroad, because of a terrorist threat or other security concern.

SEC. 506.* * *.

SEC. 507.* * *.

SEC. 508. NONLETHAL AIRPORT SECURITY EQUIPMENT AND COMMODITIES FOR EGYPT.

In addition to funds otherwise available for such purposes under chapter 8 of part II of the Foreign Assistance Act of 1961, assistance authorized to carry out the purposes of chapter 4 of part II of such Act for the fiscal years 1986 and 1987 (as well as undisbursed balances of previously obligated funds under such chapter) which are allocated for Egypt may be furnished, notwithstanding section 660 of such Act, for the provision of nonlethal airport security equipment and commodities, and training in the use of such equipment and commodities. The authority contained in this section shall be exercised by the Department of State's office responsible for administering chapter 8 of part II of the Foreign Assistance Act of 1961, in coordination with the Agency for International Development.

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[30] 22 U.S.C. 4862. Sec. 305 of the Department of State Appropriations Act, 1989 (Public Law 100–459, 102 Stat. 2208) provided the following:

"SEC. 305. Notwithstanding section 130 of the Foreign Relations Authorization Act, Fiscal Years 1988–89 and section 414 of the Diplomatic Security Act and any other provisions of law, such funds as are authorized, or that may be authorized, under the Diplomatic Security Act or any other statute, and appropriated to the Department of State under this or any other Act, may be hereafter obligated or expended for site acquisition, development, and construction of two new diplomatic facilities in Israel, Jerusalem, or the West Bank, provided that each facility (A) equally preserves the ability of the United States to locate its Ambassador or its Consul General at that site, consistent with United States policy; (B) shall not be denominated as the United States Embassy or Consulate until after the construction of both facilities has begun, and construction of one facility has been completed, or is near completion; and (C) unless security considerations require otherwise, commences operation simultaneously."

[31] 22 U.S.C. 2708 note.

[32] 22 U.S.C. 2656e.

SEC. 509.* * *.

TITLE VI—INTERNATIONAL NUCLEAR TERRORISM

SEC. 601.[33] ACTIONS TO COMBAT INTERNATIONAL NUCLEAR TERRORISM.

(a) ACTIONS TO BE TAKEN BY THE PRESIDENT.—The Congress hereby directs the President—

(1) to seek universal adherence to the Convention on the Physical Protection of Nuclear Material;

(2) to—

(A) conduct a review, enlisting the participation of all relevant departments and agencies of the Government, to determine whether the recommendations on Physical Protection of Nuclear Material published by the International Atomic Energy Agency are adequate to deter theft, sabotage, and the use of nuclear facilities and materials in acts of international terrorism, and

(B) transmit the results of this review to the Director-General of the International Atomic Energy Agency;

(3) to take, in concert with United States allies and other countries, such steps as may be necessary—

(A) to keep to a minimum the amount of weapons-grade nuclear material in international transit, and

(B) to ensure that when any such material is transported internationally, it is under the most effective means for adequately protecting it from acts or attempted acts of sabotage or theft by terrorist groups or nations; and

(4) to seek agreement in the United Nations Security Council to establish—

(A) an effective regime of international sanctions against any nation or subnational group which conducts or sponsors acts of international nuclear terrorism, and

(B) measures for coordinating responses to all acts of international nuclear terrorism, including measures for the recovery of stolen nuclear material and the clean-up of nuclear releases.

(b) REPORTS TO THE CONGRESS.—The President shall report to the Congress annually, in the reports required by section 601 of the Nuclear Non-Proliferation Act of 1978 (22 U.S.C. 3281), on the progress made during the preceding year in achieving the objectives described in this section.

SEC. 602.* * *.

SEC. 603.* * *.

SEC. 604. REVIEW OF PHYSICAL SECURITY STANDARDS.

(a) REVIEWS.—The Secretary of Energy, the Secretary of Defense, the Secretary of State, the Director of the Arms Controls and Disarmament Agency, and the Nuclear Regulatory Commission shall each review the adequacy of the physical security standards currently applicable with respect to the shipment and storage (outside the United States) of plutonium, and uranium enriched to more than 20 percent in the isotope 233 or the isotope 235, which is subject to United States prior consent rights, with special attention to protection against risks of seizure or other terrorist acts.

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[33] 22 U.S.C. 2244.

(b) REPORTS.—Not later than 6 months after the date of enactment of this Act, the Secretary of Energy, the Secretary of Defense, the Secretary of State, the Director of the Arms Control and Disarmament Agency, and the Nuclear Regulatory Commission shall each submit a written report to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate setting forth the results of the review conducted pursuant to this section, together with appropriate recommendations.

SEC. 605. INTERNATIONAL REVIEW OF THE NUCLEAR TERRORISM PROBLEM.

The Congress strongly urges the President to seek a comprehensive review of the problem of nuclear terrorism by an international conference.

SEC. 606.* * *.

TITLE VII—MULTILATERAL COOPERATION TO COMBAT INTERNATIONAL TERRORISM

SEC. 701. INTERNATIONAL ANTITERRORISM COMMITTEE.

(a) FINDINGS.—The Congress finds that—

(1) international terrorism is and remains a serious threat to the peace and security of free, democratic nations;

(2) the challenge of terrorism can only by met effectively by concerted action on the part of all responsible nations;

(3) the major developed democracies evidenced their commitment to cooperation in the fight against terrorism by the 1978 Bonn Economic Summit Declaration on Terrorism; and

(4) that commitment was renewed and strengthened at the 1986 Tokyo Economic Summit and expressed in a joint statement on terrorism.

(b) INTERNATIONAL ANTITERRORISM COMMITTEE—The Congress hereby directs the President to continue to seek the establishment of an international committee, to be known as the International Antiterrorism Committee. As a first step in establishing such committee, the President should propose to the North Atlantic Treaty Organization the establishment of a standing political committee to examine all aspects of international terrorism, review opportunities for cooperation, and make recommendations to member nations. After the establishment of this committee, the President should invite such other countries who may choose to participate. The purpose of the International Antiterrorism Committee should be to focus the attention and secure the cooperation of the governments and the public of the participating countries and of other countries on the problems and responses to international terrorism (including nuclear terrorism), by serving as a forum at both the political and law enforcement levels.

SEC. 702. INTERNATIONAL ARRANGEMENTS RELATING TO PASSPORTS AND VISAS.

The Congress strongly urges the President to seek the negotiation of international agreements (or other appropriate arrangements) to provide for the sharing of information relating to passports and visas in order to enhance cooperation among countries in combating international terrorism.

SEC. 703. PROTECTION OF AMERICANS ENDANGERED BY THE APPEARANCE OF THEIR PLACE OF BIRTH ON THEIR PASSPORTS.

(a) FINDINGS.—The Congress finds that some citizens of the United States may be specially endangered during a hijacking or other terrorist incident by the fact that their place of birth appears on their United States passport.

(b) REPORT.—Not later than one year after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to the Congress on the implications of deleting the place of birth as a required item of information on passports.

SEC. 704. USE OF DIPLOMATIC PRIVILEGES AND IMMUNITIES FOR TERRORISM PURPOSES.

The Congress strongly urges the President to instruct the Permanent Representative of the United States to the United Nations to seek the adoption of a resolution in the United Nations condemning the use for terrorist purposes of diplomatic privileges and immunities under the Vienna Convention on Diplomatic Relations, especially the misuse of diplomatic pouches and diplomatic missions.

SEC. 705. REPORTS ON PROGRESS IN INCREASING MULTILATERAL COOPERATION.

Not later than February 1, 1987, the President shall submit a report to the Congress on the steps taken to carry out each of the preceding sections of this title (except for section 703) and the progress being made in achieving the objectives described in these sections.

TITLE VIII—VICTIMS OF TERRORISM COMPENSATION

SEC. 801. SHORT TITLE.

This title may be cited as the "Victims of Terrorism Compensation Act."

SEC. 802. PAYMENT TO INDIVIDUALS HELD IN CAPTIVE STATUS BETWEEN NOVEMBER 4, 1979, AND JANUARY 21, 1981.

The amount of the payment for individuals in the Civil Service referred to in section 5569(d) of title 5, United States Code (as added by section 803 of this title), or for individuals in the uniformed services referred to in section 559(c) of title 37, United States Code (as added by section 806 of this title), as the case may be, shall be $50 for each day any such individual was held in captive status during a period commencing on or after November 4, 1979, and ending on or before January 21, 1981.

SEC. 803. BENEFITS FOR CAPTIVES AND OTHER VICTIMS OF HOSTILE ACTION.

(a) IN GENERAL.—Subchapter VII of chapter 55 of title 5, United States Code, is amended by adding at the end therefore the following:

"§ 5569.[34] Benefits for captives

"(a) For the purpose of this section—

"(1) 'captive' means any individual in a captive status commencing while such individual is—

"(A) in the Civil Service, or

"(B) a citizen, national, or resident alien of the United States rendering personal service to the United States similar to the service of an individual in the Civil Service (other than as a member of the uniformed services);

"(2) 'captive status' means a missing status which, as determined by the President, arises because of a hostile action and is a result of the individual's relationship with the Government;

"(3) 'missing status'—

"(A) in the case of an employee, has the meaning provided under section 5561(5) of this title; and

"(B) in the case of an individual other than an employee, has a similar meaning; and

"(4) 'family member,' as used with respect to a person, means—

"(A) any dependent of such person; and

"(B) any individual (other than a dependent under subparagraph (A)) who is a member of such person's family or household.

"(b)(1) The Secretary of the Treasury shall establish a savings fund to which the head of an agency may allot all or any portion of the pay and allowances of any captive to the extent that such pay and allowances are not subject to an allotment under section 5563 of this title or any other provision of law.

"(2) Amounts so allotted to the savings fund shall bear interest at a rate which, for any calendar quarter, shall be equal to the average rate paid on United States Treasury bills with 3-month maturities issued during the preceding calendar quarter. Such interest shall be compounded quarterly.

"(3) Amounts in the savings fund credited to a captive shall be considered as pay and allowances for purposes of section 5563 of this title and shall otherwise be subject to withdrawal under procedures which the Secretary of the Treasury shall establish.

"(4) Any interest accruing under this subsection on—

"(A) any amount for which an individual is indebted to the United States under section 5562(c) of this title shall be deemed to be part of the amount due under such section 5562(c); and

"(B) any amount referred to in section 5566(f) of this title shall be deemed to be part of such amount for purposes of such section 5566(f).

"(5) An allotment under this subsection may be made without regard to section 5563(c) of this title.

"(c) The head of an agency shall pay (by advancement or reimbursement) any individual who is a captive, and any family member of such individual, for medical and health care, and other expenses related to such care, to the extent that such care—

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[34] Functions vested in the President by this section were delegated to the Secretary of State by Executive Order 12598 (July 17, 1987, 52 F.R. 23421).

"(1) is incident to such individual being a captive; and

"(2) is not covered—

"(A) by any Government medical or health program; or

"(B) by insurance.

"(d)(1) Except as provided in paragraph (3), the President shall make a cash payment, computed under paragraph (2), to any individual who became or becomes a captive commencing on or after November 4, 1979. Such payment shall be made before the end of the one-year period beginning on the date on which the captive status of such individual terminates or, in the case of any individual whose status as a captive terminated before the date of the enactment of the Victims of Terrorism Compensation Act, before the end of the one-year period beginning on such date.

"(2) Except as provided in section 802 of the Victims of Terrorism Compensation Act, the amount of the payment under this subsection with respect to an individual held as a captive shall be not less than one-half of the amount of the world-wide average per diem rate under section 5702 of this title which was in effect for each day that individual was so held.

"(3) The President—

"(A) may refer a payment under this subsection in the case of any individual who, during the one-year period described in paragraph (1), is charged with an offense described in subparagraph (B), until final disposition of such charge; and

"(B) may deny such payment in the case of any individual who is convicted of an offense described in subsection (b) or (c) of section 8312 of this title committed—

"(i) during the period of captivity of such individual; and

"(ii) related to the captive status of such individual.

"(4) A payment under this subsection shall be in addition to any other amount provided by law.

"(5) The provisions of subchapter VIII of this chapter (or, in the case of any person not covered by such subchapter, similar provisions prescribed by the President) shall apply with respect to any amount due an individual under paragraph (1) after such individual's death.

"(6) Any payment made under paragraph (1) which is later denied under paragraph (3)(B) is a claim of the United States Government for purposes of section 3711 of title 31.

"(e)(1) Under regulations prescribed by the President, the benefits provided by the Soldiers' and Sailors' Civil Relief Act of 1940 including the benefits provided by section 701 of such Act but excluding the benefits provided by sections 104, 105, 106, 400 through 408, 501 through 512, and 514 of such Act, shall be provided in the case of any individual who is a captive.

"(2) In applying such Act under this subsection—

"(A) the term 'person in the military service' is deemed to include any such captive;

"(B) the term 'period of military service' is deemed to include the period during which the individual is in a captive status; and

"(C) references to the Secretary of the Army, the Secretary of the Navy, the Adjutant General of the Army, the Chief of Naval Personnel, and the Commandant, United States Marine Corps, are deemed, in the case of any captive, to be references to an individual designated for that purpose by the President.

"(f)(1)(A) Under regulations prescribed by the President, the head of an agency shall pay (by advancement or reimbursement) a spouse or child of a captive for expenses incurred for subsistence, tuition, fees, supplies, books, and equipment, and other educational expenses, while attending an educational or training institution.

"(B) Except as provided in subparagraph (C), payments shall be available under this paragraph for a spouse or child of an individual who is a captive for education or training which occurs—

"(i) after that individual has been in captive status for 90 days or more, and

"(ii) on or before—

"(I) the end of any semester or quarter (as appropriate) which begins before the date on which the captive status of that individual terminates, or

"(II) if the educational or training institution is not operated on a semester or quarter system, the earlier of the end of any course which began before such date or the end of the 16-week period following that date.

In order to respond to special circumstances, the appropriate agency head may specify a date for purposes of cessation of assistance under clause (ii) which is later than the date which would otherwise apply under such clause.

"(C) In the event a captive dies and the death is incident to that individual being a captive, payments shall be available under this paragraph for a spouse or child of such individual for education or training which occurs after the date of such individual's death.

"(D) The preceding provisions of this paragraph shall not apply with respect to any spouse or child who is eligible for assistance under chapter 35 of title 38 or similar assistance under any other provision of law.

"(E) For the purpose of this paragraph, 'child' means a dependent under section 5561(3)(B) of this title.

"(2)(A) In order to respond to special circumstances, the head of an agency may pay (by advancement or reimbursement) a captive for expenses incurred for subsistence, tuition, fees, supplies, books, and equipment, and other educational expenses, while attending an educational or training institution.

"(B) Payments shall be available under this paragraph for a captive for education or training which occurs—

"(i) after the termination of that individual's captive status, and

"(ii) on or before—

"(I) the end of any semester or quarter (as appropriate) which begins before the date which is 10 years after the day on which the captive status of that individual terminates, or

"(II) if the educational or training institution is not operated on a semester or quarter system, the earlier of the end of any course which began before such date or the end of the 16-week period following that date, and

shall be available only to the extent that such payments are not otherwise authorized by law.

"(3) Assistance under this subsection—

"(A) shall be discontinued for any individual whose conduct or progress is unsatisfactory under standards consistent with those established pursuant to section 1724 of title 38; and

"(B) may not be provided for any individual for a period in excess of 45 months (or the equivalent thereof in other than fulltime education or training).

"(4) Regulations prescribed to carry out this subsection shall provide that the program under this subsection shall be consistent with the assistance program under chapters 35 and 36 of title 38.

"(g) Any benefit provided under subsection (c) or (d) may, under regulations prescribed by the President, be provided to a family member of an individual if—

"(1) such family member is held in captive status; and

"(2) such individual is performing service for the United States as described in subsection (a)(1)(A) when the captive status of such family member commences.

"(h) Except as provided in subsection (d), this section applies with respect to any individual in a captive status commencing after January 21, 1981.

"(i) Notwithstanding any other provision of this subchapter, any determination by the President under subsection (a)(2) or (d) shall be conclusive and shall not be subject to judicial review.

"(j) The President may prescribe regulations necessary to administer this section.

"(k) Any benefit or payment pursuant to this section shall be paid out of funds available for salaries and expenses of the relevant agency of the United States.

"§ 5570.[35] Compensation for disability or death

"(a) For the purpose of this section—

"(1) 'employee' means—

"(A) any individual in the Civil Service; and

"(B) any individual rendering personal service to the United States similar to the service of an individual in the Civil Service (other than as a member of the uniformed services); and

"(2) 'family member', as used with respect to an employee, means—

"(A) any dependent of such employee; and

"(B) any individual (other than a dependent under subparagraph (A)) who is a member of the employee's family or household.

"(b) The President shall prescribe regulations under which an agency head may pay compensation for the disability or death of an employee or a family member of an employee if, as determined by the President, the disability or death was caused by hostile action and was a result of the individual's relationship with the Government.

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[35] Functions vested in the President by this section were delegated to the Secretary of State, to be exercised in consultation with the Secretary of Labor, by Executive Order 12598 (June 17, 1987, 52 F.R. 23421).

"(c) Any compensation otherwise payable to an individual under this section in connection with any disability or death shall be reduced by any amounts payable to such individual under any other program funded in whole or in part by the United States (excluding any amount payable under section 5569(d) of this title) in connection with such disability or death, except that nothing in this subsection shall result in the reduction of any amount below zero.

"(d) A determination by the President under subsection (b) shall be conclusive and shall not be subject to judicial review.

"(e) Compensation under this section may include payment (whether by advancement or reimbursement) for any medical or health expenses relating to the death or disability involved to the extent that such expenses are not covered under subsection (c) of section 5569 of this title (other than because of paragraph (2) of such subsection).

"(f) This section applies with respect to any disability or death resulting from an injury which occurs after January 21, 1981.

"(g) Any benefit or payment pursuant to this section shall be paid out of funds available for salaries and expenses of the relevant agency of the United States.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 55 of title 5, United States Code, is amended by inserting after the item relating to section 5568 the following:

"5569. Benefits for captives.
"5570. Compensation for disability or death.".

SEC. 804. RETENTION OF LEAVE BY ALIEN EMPLOYEES FOLLOWING INJURY FROM HOSTILE ACTION ABROAD.

Section 6325 of title 5, United States Code, is amended by adding at the end thereof the following: "The preceding provisions of this section shall apply in the case of an alien employee referred to in section 6301(2)(viii) of this title with respect to any leave granted to such alien employee under section 6310 of this title or section 408 of the Foreign Service Act of 1980.".

SEC. 805. TRANSITION PROVISIONS.

(a) SAVINGS FUND.—(1) Amounts may be allotted to the savings fund under subsection (b) of section 5569 of title 5, United States Code (as added by section 803(a) of this Act) from pay and allowances for any pay period ending after January 21, 1981, and before the establishment of such fund.

(2) Interest on amounts so allotted with respect to any such pay period shall be calculated as if the allotment had occurred at the end of such pay period.

(b) MEDICAL AND HEALTH CARE; EDUCATIONAL EXPENSES.—Subsections (c) and (f) of such section 5569 (as so added) shall be carried out with respect to the period after January 21, 1981, and before the effective date of those subsections, under regulations prescribed by the President.

(c) DEFINITION.—For the purpose of this subsection, "pay and allowances' has the meaning provided under section 5561 of title 5, United States Code.

SEC. 806. BENEFITS FOR MEMBERS OF UNIFORMED SERVICES WHO ARE VICTIMS OF HOSTILE ACTION.

(a) PAYMENTS.—(1) Chapter 10 of title 37, United States Code is amended by adding at the end thereof the following new section:

"§ 559.[36] Benefits for members held as captives

"(a) In this section—

"(1) 'captive status' means a missing status of a member of the uniformed services which, as determined by the President, arises because of a hostile action and is a result of membership in the uniformed services, but does not include a period of captivity of a member as a prisoner of war if Congress provides to such member, in an Act enacted after the date of the enactment of the Victims of Terrorism Compensation Act, monetary payment in respect of such period of captivity; and

"(2) 'former captive' means a person who, as a member of the uniformed services, was held in a captive status.

"(b)(1) The Secretary of the Treasury shall establish a savings fund to which the Secretary concerned may allot all or any portion of the pay and allowances of any member of the uniformed services who is in a captive status to the extent that such pay and allowances are not subject to an allotment under section 553 of this title or any other provision of law.

"(2) Amounts so allotted shall bear interest at a rate which for any calendar quarter, shall be equal to the average rate paid on United States Treasury bills with three-month maturities issued during the preceding calendar quarter. Such interest shall be computed quarterly.

"(3) Amounts in the savings fund credited to a member shall be considered as pay and allowances for purposes of section 553(c) of this title and shall otherwise be subject to withdrawal under procedures which the Secretary of the Treasury shall establish.

"(4) Any interest accruing under this subsection on—

"(A) any amount for which a member is indebted to the United States under section 552(c) of this title shall be deemed to be part of the amount due under such section; and

"(B) any amount referred to in section 556(f) of this title shall be deemed to be part of such amount for purposes of such section.

"(5) An allotment under this subsection may be made without regard to section 553(c) of this title.

"(c)(1) Except as provided in paragraph (3) of this subsection, the President shall make a cash payment to any person who is a former captive. Such payment shall be made before the end of the one-year period beginning on the date on which the captive status of such person terminates.

"(2) Except as provided in section 802 of the Victims of Terrorism Compensation Act, the amount of such payment shall be determined by the President under the provisions of section 5569(d)(2) of title 5.

"(3)(A) The President—

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[36] Functions vested in the President by this section were delegated to the Secretary of Defense by Executive Order 12598 (June 17, 1987, 52 F.R. 23421).

"(i) may defer such payment in the case of any former captive who during such one-year period is charged with an offense described in clause (ii) of this subparagraph, until final disposition of such charge; and

"(ii) may deny such payment in the case of any former captive who is convicted of a captivity-related offense—

"(I) referred to in subsection (b) or (c) of section 8312 of title 5; or

"(II) under chapter 47 of title 10 (the Uniform Code of Military Justice) that is punishable by dishonorable discharge, dismissal, or confinement for one year or more.

"(B) For the purposes of subparagraph (A) of this paragraph, a captivity-related offense is an offense that is—

"(i) committed by a person while the person is in a captive status; and

"(ii) related to the captive status of the person.

"(4) A payment under this subsection is in addition to any other amount provided by law.

"(5) Any amount due a person under this subsection shall, after the death of such person, be deemed to be pay and allowances for the purposes of this chapter.

"(6) Any payment made under paragraph (1) of this subsection that is later denied under paragraph (3)(A)(ii) of this subsection is a claim of the United States Government for purposes of section 3711 of title 31.

"(d) A determination by the President under subsection (a)(1) or (c) of this section is final and is not subject to judicial review.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"559. Benefits for members held as captives.".

(3)(A)(i) Except as provided in clause (ii), section 559 of title 37, United States Code, as added by paragraph (1), shall apply to any person whose captive status begins after January 21, 1981.

(ii)(I) Subsection (c) of such section shall apply to any person whose captive status begins on or after November 4, 1979.

(II) In the case of any person whose status as a captive terminated before the date of the enactment of this Act, the President shall make a payment under paragraph (1) of such subsection before the end of the one-year period beginning on such date.

(B) Amounts may be allotted to a savings fund established under such section from pay and allowances for any pay period ending after January 21, 1981, and before the establishment of such fund.

(C) Interest on amounts so allotted with respect to any such pay period shall be calculated as if the allotment had occurred at the end of such pay period.

(b) DISABILITY AND DEATH BENEFITS.—(1) Chapter 53 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 1051.[37] Disability and death compensation: dependents of members held as captives

"(a) The President shall prescribe regulations under which the Secretary concerned may pay compensation for the disability or death of a dependent of a member of the uniformed services if the President determines that the disability or death—

"(1) was caused by hostile action; and

"(2) was a result of the relationship of the dependent to the member of the uniformed services.

"(b) Any compensation otherwise payable to a person under this section in connection with any disability or death shall be reduced by any amount payable to such person under any other program funded in whole or in part by the United States in connection with such disability or death, except that nothing in this subsection shall result in the reduction of any amount below zero.

"(c) A determination by the President under subsection (a) is conclusive and is not subject to judicial review.

"(d) In this section:

"(1) 'Dependent' has the meaning given that term in section 551 of that title.

"(2) 'Secretary concerned' and 'uniformed services' have the meanings given those terms in section 101 of that title.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"1051. Disability and death compensation: dependents of members held as captives.".

(3) Section 1051 of title 10, United States Code, as added by paragraph (1), shall apply with respect to any disability or death resulting from an injury that occurs after January 21, 1981.

(c) MEDICAL BENEFITS.—(1) Chapter 55 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 1095.[38] Medical care: members held as captives and their dependents

"(a) Under regulations prescribed by the President, the Secretary concerned shall pay (by advancement or reimbursement) any person who is a former captive, and any dependent of that person or of a person who is in a captive status, for health care and other expenses related to such care, to the extent that such care—

"(1) is incident to the captive status; and

"(2) is not covered—

"(A) by any other Government medical or health program; or

"(B) by insurance.

"(b) In the case of any person who is eligible for medical care under section 1074 or 1076 of this title, such regulations shall require that, whenever practicable, such care be provided in a facility of the uniformed services.

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[37] Functions vested in the President by this section were delegated to the Secretary of Defense, to be exercised in consultation with the Secretary of Labor, by Executive Order 12598 (June 17, 1987, 52 F.R. 23421).

[38] Functions vested in the President by this section were delegated to the Secretary of Defense by Executive Order 12598 (June 17, 1987, 52 F.R. 23421).

"(c) In this section:

"(1) 'Captive status' and 'former captive' have the meanings given those terms in section 559 of title 37.

"(2) 'Dependent' has the meaning given that term in section 551 of that title.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"1095. Medical care: members held as captives and their dependents.".

(3)(A) Section 1095 of title 10, United States Code, as added by paragraph (1), shall apply with respect to any person whose captive status begins after January 21, 1981.

(B) The President shall prescribe specific regulations regarding the carrying out of such section with respect to persons whose captive status begins during the period beginning on January 21, 1981, and ending on the effective date of that section.

(d) EDUCATIONAL ASSISTANCE.—(1) Part III of title 10, United States Code, is amended by adding at the end thereof the following new chapter:

"CHAPTER 110—EDUCATIONAL ASSISTANCE FOR MEMBERS HELD AS CAPTIVES AND THEIR DEPENDENTS [39]

"Sec.
"2181. Definitions.
"2182. Educational assistance: dependents of captives.
"2183. Educational assistance: former captives.
"2184. Termination of assistance.
"2185. Programs to be consistent with programs administered by the Veterans' Administration.

"§ 2181. Definitions

"In this chapter:

"(1) 'Captive status' and 'former captive' have the meanings given those terms in section 559 of title 37.

"(2) 'Dependent' has the meaning given that term in section 551 of that title.

"§ 2182. Educational assistance: dependents of captives

"(a) Under regulations prescribed by the President, the Secretary concerned shall pay (by advancement or reimbursement) a dependent of a person who is in a captive status for expenses incurred, while attending an educational or training institution, for—

"(1) substance;
"(2) tuition;
"(3) fees;
"(4) supplies;
"(5) books;
"(6) equipment; and
"(7) other educational expenses.

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[39] Functions vested in the President by this chapter of title 10 were delegated to the Secretary of Defense by Executive Order 12598 (June 17, 1987, 52 F.R. 23421).

"(b) Except as provided in section 2184 of this title, payments shall be available under this section for dependent of a person who is in a captive status for education or training that occurs—

"(1) after that person is in a captive status for not less than 90 days; and

"(2) on or before—

"(A) the end of any semester or quarter (as appropriate) that begins before the date on which the captive status of that person terminates;

"(B) the earlier of the end of any course that began before such date or the end of the 16-week period following that date if the education or training institution is not operated on a semester or quarter system; or

"(C) a date specified by the Secretary concerned in order to respond to special circumstances.

"(c) If a person in a captive status or a former captive dies and the death is incident to the captivity, payments shall be available under this section for a dependent of that person for education or training that occurs after the date of the death of that person.

"(d) The provisions of this section shall not apply to any dependent who is eligible for assistance under chapter 35 of title 38 or similar assistance under any other provision of law.

"§ 2183. Educational assistance: former captives

"(a) In order to respond to special circumstances, the Secretary concerned may pay (by advancement or reimbursement) a person who is a former captive for expenses incurred, while attending an educational or training institution, for—

"(1) substance;
"(2) tuition;
"(3) fees;
"(4) supplies;
"(5) books;
"(6) equipment; and
"(7) other educational expenses.

"(b) Except as provided in section 2184 of this title, payments shall be available under this section for a person who is a former captive for education or training that occurs—

"(1) after the termination of the status of that person as a captive; and

"(2) on or before—

"(A) the end of any semester or quarter (as appropriate) that begins before the end of the 10-year period beginning on the date on which the status of that person as a captive terminates; or

"(B) if the educational or training institution is not operated on a semester or quarter system, the earlier of the end of any course that began before such date or the end of the 16-week period following that date.

"(c) Payments shall be available under this section only to the extent that such payments are not otherwise authorized by law.

"§ 2184. Termination of assistance

"Assistance under this chapter—

"(1) shall be discounted for any person whose conduct or progress is unsatisfactory under standards consistent with those established under section 1724 of title 38; and

"(2) may not be provided for any person for more than 45 months (for the equivalent in other than full-time education or training).

"§ 2185. Programs to be consistent with programs administered by the Veterans' Administration

"Regulations prescribed to carry out this chapter shall provide that the programs under this chapter shall be consistent with the educational assistance programs under chapters 35 and 36 of title 38.".

(2) The table of chapters at the beginning of subtitle A of such title, and the table of chapters at the beginning of part III of such subtitle, are amended by inserting after the item relating to chapter 109 the following new item:

"110. Educational Assistance for Members Held as Captives and Their Dependents .... 2181".

(3) Chapter 110 of title 10, United States Code, as added by paragraph (1) shall apply with respect to persons whose captive status begins after January 21, 1981.

(e) ACCOUNT USED FOR PAYMENT OF COMPENSATION FOR VICTIMS OF TERRORISM.—(1) Chapter 19 of title 37, United States Code, is amended by adding at the end thereof the following new section:

"§ 1013. Payment of compensation for victims of terrorism

"Any benefit or payment pursuant to section 559 of this title, or section 1051 or 1095 or chapter 110 of title 10, shall be paid out of funds available to the Secretary concerned for military personnel.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"1013. Payment of compensation for victims of terrorism.".

SEC. 807. REGULATIONS.

Any regulation required by this title or by any amendment made by this title shall take effect not later than 6 months after the date of enactment of this Act.

SEC. 808. EFFECTIVE DATE OF ENTITLEMENTS.

Provisions enacted by this title which provide new spending authority described in section 401(c)(2)(C) of the Congressional Budget Act of 1974 shall not be effective until October 1, 1986.

TITLE IX—MARITIME SECURITY

SEC. 901. SHORT TITLE.

This title may be cited as the "International Maritime and Port Security Act".

SEC. 902.[40] INTERNATIONAL MEASURES FOR SEAPORT AND SHIPBOARD SECURITY.

The Congress encourages the President to continue to seek agreement through the International Maritime Organization on matters of international seaport and shipboard security, and commends him on his efforts to date. In developing such agreement, each member country of the International Maritime Organization should consult with appropriate private sector interests in that country. Such agreement would establish seaport and vessel security measures and could include—

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[40] 46 U.S.C. app. 1801.

(1) seaport screening of cargo and baggage similar to that done at airports;

(2) security measures to restrict access to cargo, vessels, and dockside property to authorized personnel only;

(3) additional security on board vessels;

(4) licensing or certification of compliance with appropriate security standards; and

(5) other appropriate measures to prevent unlawful acts against passengers and crews on board vessels.

SEC. 903. MEASURES TO PREVENT UNLAWFUL ACTS AGAINST PASSENGERS AND CREWS ON BOARD SHIPS.

(a) Report on Progress of IMO.—The Secretary of Transportation and the Secretary of State, jointly, shall report to the Congress by February 28, 1987, on the progress of the International Maritime Organization in developing recommendations on Measures to prevent Unlawful Acts Against Passengers and Crews On Board Ships.

(b) Content of Report.—The report required by subsection (a) shall include the following information—

(1) the specific areas of agreement and disagreement on the recommendations among the member nations of the International Maritime Organization;

(2) the activities of the Maritime Safety Committee, the Facilitation Committee, and the Legal Committee of the International Maritime Organization in regard to the proposed recommendations; and

(3) the security measures specified in the recommendations.

(c) Security Measures at United States Ports.—If the member nations of the International Maritime Organization have not finalized and accepted the proposed recommendations by February 28, 1987, the Secretary of Transportation shall include in the report required by this section a proposed plan of action (including proposed legislation if necessary) for the implementation of security measures at United States ports and on vessels operating from those parts based on the assessment of threat from acts of terrorism reported by the Secretary of Transportation under section 905.

SEC. 904. PANAMA CANAL SECURITY.

Not later than 6 months after the date of enactment of this Act, the President shall report to the Congress on the status of physical security at the Panama Canal with respect to the threat of terrorism.

SEC. 905.[41] THREAT OF TERRORISM TO UNITED STATES PORTS AND VESSELS.

Not later than February 28, 1987, and annually thereafter, the Secretary of Transportation shall report to the Congress on the threat from acts of terrorism to United States ports and vessels operating from those ports.

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[41] 46 U.S.C. app. 1802

SEC. 906. PORT, HARBOR, AND COASTAL FACILITY SECURITY.

The Ports and Waterways Safety Act of 1972 (33 U.S.C. 1221 et seq.) is amended by inserting after section 6 of the following new section:

"Sec. 7. Port, Harbor, and Coastal Facility Security.

"(a) General Authority.—The Secretary may take actions described in subsection (b) to prevent or respond to an act of terrorism against—

"(1) an individual, vessel, or public or commercial structure, that is—

"(A) subject to the jurisdiction of the United States; and

"(B) located within or adjacent to the marine environment; or

"(2) a vessel of the United States or an individual on board that vessel.

"(b) Specific Authority.—Under subsection (a), the Secretary may—

"(1) carry out or require measures, including inspections, port and harbor patrols, the establishment of security and safety zones, and the development of contingency plans and procedures, to prevent or respond to acts of terrorism; and

"(2) recruit members of the Regular Coast Guard and the Coast Guard Reserve and train members of the Regular Coast Guard and the Coast Guard Reserve in the techniques of preventing and responding to acts of terrorism.".

SEC. 907.[42] SECURITY STANDARDS AT FOREIGN PORTS.

(a) Assessment of Security Measures.—The Secretary of Transportation shall develop and implement a plan to assess the effectiveness of the security measures maintained at those foreign ports which the Secretary, in consultation with the Secretary of State, determines pose a high risk of acts of terrorism directed against passenger vessels.

(b) Consultation With the Secretary of State.—In carrying out subsection (a), the Secretary of Transportation shall consult the Secretary of State with respect to the terrorist threat which exists in each country and poses a high risk of acts of terrorism directed against passenger vessels.

(c) Report of Assessments.—Not later than 6 months after the date of enactment of this Act, the Secretary of Transportation shall report to the Congress on the plan developed pursuant to subsection (a) and how the Secretary will implement the plan.

(d) Determination and Notification to Foreign Country.—If, after implementing the plan in accordance with subsection (a), the Secretary of Transportation determines that a port does not maintain and administer effective security measures, the Secretary of State (after being informed by the Secretary of Transportation) shall notify the appropriate government authorities of the country in which the port is located of such determination, and shall recommend the steps necessary to bring the security measures in use at that port up to the standard used by the Secretary of Transportation in making such assessment.

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[42] 46 U.S.C. app. 1803.

(e) Antiterrorism Assistance Related to Maritime Security.—The President is encouraged to provide antiterrorism assistance related to maritime security under chapter 8 of part II of the Foreign Assistance Act of 1961 to foreign countries, especially with respect to a port which the Secretary of Transportation determines under subsection (d) does not maintain and administer effective security measures.

SEC. 908.[43] TRAVEL ADVISORIES CONCERNING SECURITY AT FOREIGN PORTS.

(a) Travel Advisory.—Upon being notified by the Secretary of Transportation that the Secretary has determined that a condition exists that threatens the safety or security of passengers, passenger vessels, or crew traveling to or from a foreign port which the Secretary of Transportation has determined pursuant to section 907(d) to be a port which does not maintain and administer effective security measures, the Secretary of State shall immediately issue a travel advisory with respect to that port. Any travel advisory issued pursuant to this subsection shall be published in the Federal Register. The Secretary of State shall take the necessary steps to widely publicize that travel advisory.

(b) Lifting of Travel Advisory.—The travel advisory required to be issued under subsection (a) may be lifted only if the Secretary of Transportation, in consultation with the Secretary of State, has determined that effective security measures are maintained and administered at the port with respect to which the Secretary of Transportation had made the determination described in section 907(d).

(c) Notification to Congress.—The Secretary of State shall immediately notify the Congress of any change in the status of a travel advisory imposed pursuant to this section.

SEC. 909.[44] SUSPENSION OF PASSENGER SERVICES.

(a) President's Determination.—Whenever the President determines that a foreign nation permits the use of territory under its jurisdiction as a base of operations or training for, or as a sanctuary for, or in any way arms, aids, or abets, any terrorist or terrorist group which knowingly uses the illegal seizure of passenger vessels or the threat thereof as an instrument of policy, the President may, without notice or hearing and for as long as the President determines necessary to assure the security of passenger vessels against unlawful seizure, suspend the right of any passenger vessel common carrier to operate to and from, and the right of any passenger vessel of the United States to utilize, any port in that foreign nation for passenger service.

(b) Prohibition.—It shall be unlawful for any passenger vessel common carrier, or any passenger vessel of the United States, to operate in violation of the suspension of rights by the President under this section.

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[43] 46 U.S.C. app. 1804.

[44] 46 U.S.C. app. 1805.

(c) Penalty.—(1) If a person operates a vessel in violation of this section, the Secretary of the department in which the Coast Guard is operating may deny the vessels of that person entry to United States ports.

(2) A person violating this section is liable to the United States Government for a civil penalty of not more than $50,000. Each day a vessel utilizes a prohibited port shall be a separate violation of this section.

SEC. 910.[45] SANCTIONS FOR THE SEIZURE OF VESSELS BY TERRORISTS.

The Congress encourages the President—

(1) to review the adequacy of domestic and international sanctions against terrorists who seize or attempt to seize vessels; and

(2) to strengthen where necessary, through bilateral and multilateral efforts, the effectiveness of such sanctions.

Not later than one year after the date of enactment of this Act, the President shall submit a report to the Congress which includes the review of such sanctions and the efforts to improve such sanctions.

SEC. 911.[46] DEFINITIONS.

For purposes of this title—

(1) the term "common carrier" has the same meaning given such term in section 3(6) of the Shipping Act of 1984 (46 U.S.C. App. 1702(6)); and

(2) the terms "passenger vessel" and "vessel of the United States" have the same meaning given such terms in section 2102 of title 46, United States Code.

SEC 912.[47] AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $12,500,000 for each of the fiscal years 1987 through 1991, to be available to the Secretary of Transportation to carry out this title.

SEC. 913.[48] REPORTS.

(a) Consolidation.—To the extent practicable, the reports required under sections 903, 905, and 907 shall be consolidated into a single document before being submitted to the Congress. Any classified material in those reports shall be submitted separately as an addendum to the consolidated report.

(b) Submission to Committees.—The reports required to be submitted to the Congress under this title shall be submitted to the Committee on Foreign Affairs and the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Foreign Relations and the Committee on Commerce, Science and Transportation of the Senate.

TITLE X—FASCELL FELLOWSHIP PROGRAM [49]

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[45] 46 U.S.C. app. 1806.

[46] 46 U.S.C. app. 1807.

[47] 46 U.S.C. app. 1808.

[48] 46 U.S.C. app. 1809.

[49] The Fascell Fellowship Act provided fellowships to United States citizens while they serve in positions formerly held by foreign national employees at United States diplomatic or consular missions in the Soviet Union or Eastern European countries. For text, see page 701.

TITLE XI—SECURITY AT MILITARY BASES ABROAD

SEC. 1101.[50] FINDINGS.

The Congress finds that—

(1) there is evidence that terrorists consider bases and installations of United States Armed Forces outside the United States to be targets for attack;

(2) more attention should be given to the protection of members of the Armed Forces, and members of their families, stationed outside the United States; and

(3) current programs to educate members of the Armed Forces, and members of their families, stationed outside of the United States to the threats of terrorist activity and how to protect themselves should be substantially expanded.

SEC. 1102.[50] RECOMMENDED ACTIONS BY THE SECRETARY OF DEFENSE.

It is the sense of the Congress that—

(1) the Secretary of Defense should review the security of each base and installation of the Department of Defense outside the United States, including the family housing and support activities of each such base or installation, and take the steps the Secretary considers necessary to improve the security of such bases and installations; and

(2) the Secretary of Defense should institute a program of training for members of the Armed Forces, and for members of their families, stationed outside the United States concerning security and antiterrorism.

SEC. 1103.[50] REPORT TO THE CONGRESS.

Not later than June 30, 1987, the Secretary of Defense shall report to the Congress on any actions taken by the Secretary described in section 1102.

TITLE XII—CRIMINAL PUNISHMENT OF INTERNATIONAL TERRORISM

SEC. 1201. ENCOURAGEMENT FOR NEGOTIATION OF A CONVENTION.

(a) SENSE OF CONGRESS.—It is the sense of the Congress that the President should establish a process encourage the negotiation of an international convention to prevent and control all aspects of international terrorism.

(b) RELATION TO EXISTING INTERNATIONAL CONVENTIONS.—Such convention should address the prevention and control of international terrorism in a comprehensive fashion, taking into consideration matters not covered by—

(1) the Convention for the Suppression of Unlawful Seizure of Aircraft (the Hague, December 16, 1970; 22 U.S.T. 1641, TIAS 7192);

(2) the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation (Montreal, September 23, 1971; 24 U.S.T. 564, TIAS 7570);

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[50] 10 U.S.C. 133 note.

(3) the Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons (New York, December 14, 1973; 28 U.S.T. 1975, TIAS 8532);

(4) the Convention Against the Taking of Hostages (New York, December 17, 1979; XVIII International Legal Materials 1457);

(5) the Convention on the Physical Protection of Nuclear Materials (October 26, 1979; XVIII International Legal Materials 1419); and

(6) the Convention on Offenses and Certain Other Acts Committed on Board Aircraft (Tokyo, September 14, 1963; 20 U.S.T. 2941, TIAS 6768).

(c) WHAT THE CONVENTION SHOULD PROVIDE.—Such convention should provide—

(1) an explicit definition of conduct constituting terrorism;

(2) effective close intelligence-sharing, joint counterterrorist training, and uniform rules for asylum and extradition for perpetrators of terrorism; and

(3) effective criminal penalties for the swift punishment of perpetrators of terrorism.

(d) CONSIDERATION OF AN INTERNATIONAL TRIBUNAL.—The President should also consider including on the agenda for these negotiations the possibility of eventually establishing an international tribunal for prosecuting terrorists.

SEC. 1202. EXTRATERRITORIAL CRIMINAL JURISDICTION OVER TERRORIST CONDUCT.

(a) IN GENERAL.—Part I of title 18, United States Code, is amended by inserting after chapter 113 the following:

"CHAPTER 113A—EXTRATERRITORIAL JURISDICTION OVER TERRORIST ACTS ABROAD AGAINST UNITED STATES NATIONALS

"§ 2331. Terrorist acts abroad against United States nationals

"(a) HOMICIDE.—Whoever kills a national of the United States, while such national is outside the United States, shall—

"(1) if the killing is a murder as defined in section 1111(a) of this title, be fined under this title or imprisoned for any term of years or for life, or both so fined and so imprisoned;

"(2) if the killing is a voluntary manslaughter as defined in section 1112(a) of this title, be fined under this title or imprisoned not more than ten years, or both; and

"(3) if the killing is an involuntary manslaughter as defined in section 1112(a) of this title, be fined under this title or imprisoned not more than three years, or both.

"(b) ATTEMPT OR CONSPIRACY WITH RESPECT TO HOMICIDE.—Whoever outside the United States attempts to kill, or engages in a conspiracy to kill, a national of the United States shall—

"(1) in the case of an attempt to commit a killing that is a murder as defined in this chapter, be fined under this title or imprisoned not more than 20 years, or both; and

"(2) in the case of a conspiracy by two or more persons to commit a killing that is a murder as defined in section 1111(a) of this title, if one or more of such persons do any overt act to effect the object of the conspiracy, be fined under this title or imprisoned for any term of years or for life, or both so fined and so imprisoned.

"(c) OTHER CONDUCT.—Whoever outside the United States engages in physical violence—

"(1) with intent to cause serious bodily injury to a national of the United States; or

"(2) with the result that serious bodily injury is caused to a national of the United States;

shall be fined under this title or imprisoned not more than five years, or both.

"(d) DEFINITION.—As used in this section in term 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

"(e) LIMITATION ON PROSECUTION.—No prosecution for any offense described in this section shall be undertaken by the United States except on written certification of the Attorney General or the highest ranking subordinate of the Attorney General with responsibility for criminal prosecutions that, in the judgment of the certifying official, such offense was intended to coerce, intimidate, or retaliate against a government or a civilian population.".

(b) CLERICAL AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item for chapter 113, the following new item:

"113A. Extraterritorial jurisdiction over terrorist acts abroad against United States nationals.".

TITLE XIII—MISCELLANEOUS PROVISIONS

SEC. 1301.* * *.

SEC. 1302. DEMONSTRATIONS AT EMBASSIES IN THE DISTRICT OF COLUMBIA.

It is the sense of the Congress that—

(1) the District of Columbia law concerning demonstrations near foreign missions in the District of Columbia (D.C. Code, sec. 22-1115) may be inconsistent with the reasonable exercise of the rights of free speech and assembly, that law may have been selectively enforced, and peaceful demonstrations may have been unfairly arrested under that law;

(2) the obligation of the United States to provide adequate security for the missions and personnel of foreign governments must be balanced with the reasonable exercise of the rights of free speech and assembly; and

(3) therefore, the Council of the District of Columbia should review and, if appropriate, make revisions in the laws of the District of Columbia concerning demonstrations near foreign missions, in consultations with the Secretary of State and the Secretary of the Treasury.

SEC. 1303. KURT WALDHEIM'S RETIREMENT ALLOWANCE.

(a) FINDINGS.—The Congress finds that—

(1) Kurt Waldheim's misrepresentations about his past enabled him to rise to the position of Secretary General of the United Nations;

(2) Kurt Waldheim currently receives $81,650 a year as a retirement allowance for his service in that position; and

(3) Kurt Waldheim's misrepresentations went to matters that lie at the very heart of the purposes of the United Nations.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that the President should instruct the Permanent Representative of the United States to the United Nations to act to amend the 1986–1987 Regular Program Budget to eliminate funding of Kurt Waldheim's retirement allowance and to act to deny Kurt Waldheim a retirement allowance in all future budgets.

SEC. 1304.* * *.

SEC. 1305. STRENGTHENING FOREIGN LANGUAGE SKILLS.

It is the sense of the Congress that the Secretary of State should substantially strengthen the foreign language training of Foreign Service officers and other United States diplomatic personnel who may serve in embassies overseas, and to work toward early implementation of a program focusing on acquisition and retention of effective linguistic skills the careers of United States diplomatic personnel.

SEC. 1306. FORFEITURE OF PROCEEDS DERIVED FROM ESPIONAGE ACTIVITIES.

(a) GATHERING, TRANSMITTING, OR LOSING DEFENSE INFORMATION.—Section 793 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(h)(1) Any person convicted of a violation of this section shall forfeit to the United States, irrespective of any provision of State law, any property constituting, or derived from, any proceeds the person obtained, directly or indirectly, from any foreign government, or any faction or party or military or naval force within a foreign country, whether recognized or unrecognized by the United States, as the result of such violation.

"(2) The court, in imposing sentence on a defendant for a conviction of a violation of this section, shall order that the defendant forfeit to the United States all property described in paragraph (1) of this subsection.

"(3) The provisions of subsections (b), (c), and (e) through (o) of section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853(b), (c), and (e)–(o)) shall apply to—

"(A) property subject to forfeiture under this subsection;

"(B) any seizure or disposition of such property; and

"(C) any administrative or judicial proceeding in relation to such property,

if not consistent with this subsection.

"(4) Notwithstanding section 524(c) of title 28, there shall be deposited in the Crime Victims Fund in the Treasury all amounts from the forfeiture of property under this subsection remaining after the payment of expenses for forfeiture and sale authorized by law.".

(b) GATHERING OR DELIVERING DEFENSE INFORMATION TO AID FOREIGN GOVERNMENT.—Section 794 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(d)(1) Any person convicted of a violation of this section shall forfeit to the United States irrespective of any provision of State law—

"(A) any property constituting, or derived from, any proceeds the person obtained, directly or indirectly, as the result of such violation, and

"(B) any of the person's property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, such violation.

"(2) The court, in imposing sentence on a defendant for a conviction of a violation of this section, shall order that the defendant forfeit to the United States all property described in paragraph (1) of this subsection.

"(3) The provisions of subsections (b), (c) and (e) through (o) of section 413 to the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853(b), (c), and (e)-(o)) shall apply to—

"(A) property subject to forfeiture under this subsection;

"(B) any seizure or disposition of such property; and

"(C) any administrative or judicial proceeding in relation to such property,

if not inconsistent with this subsection.

"(4) Notwithstanding section 524(c) of title 28, there shall be deposited in the Crime Victims Fund in the Treasury all amount from the forfeiture of property under this subsection remaining after the payment of expenses for forfeiture and sale authorized by law.".

(c) ORDER OF SPECIAL FORFEITURE.—Subsection (a) of section 3671 of title 18, United States Code, is amended by inserting after "conviction of a defendant for" the following: "an offense under section 794 of this title or for".

SEC. 1307. EXPRESSION OF SUPPORT OF ACTIVITIES OF THE UNITED STATES TELECOMMUNICATIONS TRAINING INSTITUTE.

Nothing in this Act, the Communications Act of 1934, or any other Act, shall be construed to preclude the Department of State, the United States Agency for International Development, or the United States Information Agency from participation in support of any activities of the United States Telecommunications Training Institute (including use of staff, other appropriate resources and service of the board of the Institute).

SEC. 1308. POLICY TOWARD AFGHANISTAN.

(a) FINDINGS.—The Congress finds that—

(1) the Soviet Union invaded the sovereign territory of Afghanistan on December 27, 1979, and continues to occupy and attempt to subjugate that nation through the use of force, relying upon a puppet regime and an occupying army of an estimated 120,000 Soviet troops;

(2) the outrageous and barbaric treatment of the people of Afghanistan by the Soviet Union is repugnant to all freedom-loving peoples as reflected in seven United Nations resolutions of condemnation, violates all standards of conduct befitting a responsible nation, and contravenes all recognized principles of international law;

(3) the Special Rapporteur of the United Nations Commission on Human Rights, in his November 5, 1985, report to the General Assembly, concludes that "whole groups of persons and tribes are endangered in their existence and in their lives because their living conditions are fundamentally affected by the kind of warfare being waged" and that the "Government of Afghanistan, with heavy support from foreign [Soviet] troops, acts with great severity against opponents or suspected opponents of the regime without any respect for human rights obligations" including "use of antipersonnel mines and of so-called toy bombs" and "the indiscriminate mass killings of civilians, particularly women and children";

(4) the Special Rapporteur also concludes that the war in Afghanistan has been characterized by "the most cruel methods of warfare and by the destruction of large parts of the country which has affected the conditions of life of the population, destabilizing the ethnic and tribal structure and disrupting family units" and that the "demographic structure of the country has changed, since over 4 million refugees from all provinces and all classes have settled outside the country and thousands of internal refugees have crowded into the cities like Kabul";

(5) the United Nations General Assembly, in a recorded vote of 80–22 on December 13, 1985, accepted the findings of the Special Rapporteur and deplored the refusal of Soviet-led Afghan officials to cooperate with the United Nations, and expressed "profound distress and alarm" at "the widespread violations of the right to life, liberty, and security of person, including the commonplace practice of torture and summary executions of the regime's opponents, as well as increasing evidence of a policy of religious intolerance";

(6) in a subsequent report of the Special Rapporteur of February 14, 1986, the Special Rapporteur found that "The only solution to the human rights situation in Afghanistan is the withdrawal of the foreign troops" and that "Continuation of the military solution will, in the opinion of the Special Rapporteur, lead inevitably to a situation approaching Genocide, which the traditions and culture of this noble people cannot permit";

(7) the Soviet invasion of Afghanistan caused the United States to postpone indefinitely action on the SALT II Treaty in 1979, and the presence of Soviet troops in that country today continues to adversely affect the prospects for long-term improvement of the United States-Soviet bilateral relationship in many fields of great importance to the global community;

(8) the Soviet leadership appears to be engaged in a calculated policy of raising hopes for a withdrawal of Soviet troops from Afghanistan in the apparent belief that words will substitute for genuine action in shaping world opinion; and

(9) President Reagan, in his February 4, 1986, State of the Union Address promised the Afghan people that "America will support with moral and material assistance your right not just to fight and die for freedom, but to fight and win freedom".

(b) POLICY.—(1) It is the sense of the Congress that the United States, so long as Soviet military forces occupy Afghanistan, should support the efforts of the people of Afghanistan to regain the sovereignty and territorial integrity of their nation through—

(A) the appropriate provisions of material support;

(B) renewed multilateral initiatives aimed at encouraging Soviet military withdrawal, the return of an independent and nonaligned status to Afghanistan, and a peaceful political settlement acceptable to the people of Afghanistan, which includes provision for the return of Afghan refugees in safety and dignity;

(C) a continuous and vigorous public information campaign to bring the facts of the situation in Afghanistan to the attention of the world;

(D) frequent efforts to encourage the Soviet leadership and the Soviet-backed Afghan regime to remove the barriers erected against the entry into and reporting of events in Afghanistan by international journalists; and

(E) vigorous efforts to impress upon the Soviet leadership the penalty that continued military action in Afghanistan imposes upon the building of a long-term constructive relationship with the United States, because of the negative effect that Soviet policies in Afghanistan have on attitudes toward the Soviet Union among the American people and the Congress.

(2) It is further the sense of the Congress that the Secretary of State should—

(A) determine whether the actions of Soviet forces against the people of Afghanistan constitute the international crime of Genocide as defined in Article II of the International Convention on the Prevention and Punishment of the Crime of Genocide, signed on behalf of the United States on December 11, 1948, and, if the Secretary determines that Soviet actions may constitute the crime of genocide, he shall report his findings to the President and the Congress, along with recommended actions; and

(B) review United States policy with respect to the continued recognition of the Soviet puppet government in Kabul to determine whether such recognition is in the interest of the United States.

c. Achille Lauro Hijackers and Other Terrorists: Demand for Apprehension, Prosecution, and Punishment

Partial text of Public Law 99-177 [H.J. Res. 372], 99 Stat. 1037, approved December 12, 1985

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SEC. 3. ACHILLE LAURO HIJACKING.

(a) The Senate finds that—

(1) the four men identified as the hijackers of the Achille Lauro were responsible for brutally murdering an innocent American citizen, Leon Klinghoffer, and for terrorizing hundreds of innocent crew members and passengers for two days;

(2) the United States urges all countries to aid in the swift apprehension, prosecution, and punishment of the terrorists; and

(3) the United States should not tolerate any country providing safe harbor or safe passage to the terrorists.

(b) It is the sense of the Senate that—

(1) the United States demands that no country provide safe harbor or safe passage to these terrorists;

(2) the United States expects full cooperation of all countries in the apprehension, prosecution, and punishment of these terrorists;

(3) the United States cannot condone the release of terrorists or the making of concessions to terrorists; and

(4) the United States identify those individuals responsible for the seizure of the Achille Lauro and the cold-blooded murder of Leon Klinghoffer, as well as those countries and groups that aid and abet such terrorist activities, and take the strongest measures to ensure that those responsible for this brutal act against an American citizen are brought to justice.

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d. 1984 Act to Combat International Terrorism

Public Law 98-533 [H.R. 6311], 98 Stat. 2706, approved October 19, 1984; as amended by Public Law 99-646 [S.1236], 100 Stat. 3592, approved November 10, 1966; and by Public Law 100-690 [H.R. 5210], 102 Stat. 4181, approved November 18, 1988

AN ACT To combat international terrorism.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1. This Act may be cited as the "1984 Act to Combat International Terrorism".

TITLE I—REWARDS FOR INFORMATION ON INTERNATIONAL TERRORISM AUTHORITY OF THE ATTORNEY GENERAL

Sec. 101. (a) Title 18 of the United States Code is amended by adding the following new chapter after chapter 203:

"CHAPTER 204—REWARDS FOR INFORMATION CONCERNING TERRORIST ACTS

"Sec.
"3071. Information for which rewards authorized.
"3072. Determination of entitlement; maximum amount; Presidential approval; conclusiveness.
"3073. Protection of identity.
"3074. Exception of governmental officials.
"3075. Authorization for appropriations.
"3076. Eligibility for witness security program.
"3077. Definitions.

"§ 3071. Information for which rewards authorized

"With respect to acts of terrorism primarily within the territorial jurisdiction of the United States, the Attorney General may reward any individual who furnishes information—

"(1) leading to the arrest or conviction, in any country, of any individual or individuals for the commission of an act of terrorism against a United States person or United States property; or

"(2) leading to the arrest or conviction, in any country, of any individual or individuals for conspiring or attempting to commit an act of terrorism against a United States person or property; or

"(3) leading to the prevention, frustration, or favorable resolution of an act of terrorism against a United States person or property.

"§ 3072. Determination of entitlement; maximum amount; Presidential approval; conclusiveness

"The Attorney General shall determine whether an individual furnishing information described in section 3071 is entitled to a reward and the amount to be paid. A reward under this section may be in an amount not to exceed $500,000. A reward of $100,000 or more may not be made without the approval of the President or the Attorney General personally. A determination made by the Attorney General or the President under this chapter shall be final and conclusive, and no court shall have power or jurisdiction to review it.

"§ 3073. Protection of identity

"Any reward granted under this chapter shall be certified for payment by the Attorney General. If it is determined that the identity of the recipient of a reward or of the members of the recipient's immediate family must be protected, the Attorney General may take such measures in connection with the payment of the reward as deemed necessary to effect such protection.

"§ 3074. Exception of governmental officials

"No officer or employee of any governmental entity who, while in the performance of his or her official duties, furnishes the information described in section 3071 shall be eligible for any monetary reward under this chapter.

"§ 3075. Authorization for appropriations

"There are authorized to be appropriated, without fiscal year limitation, $5,000,000 for the purpose of this chapter.

"§ 3076. Eligibility for witness security program

"Any individual (and the immediate family of such individual) who furnishes information which would justify a reward by the Attorney General under this chapter or by the Secretary of State under section 36 of the State Department Basic Authorities Act of 1956 may, in the discretion of the Attorney General, participate in the Attorney General's witness security program authorized under chapter 224 of this title.[1]

"§ 3077. Definitions

"As used in this chapter, the term—

"(1) 'act of terrorism' means an activity that—

"(A) involves a violent act or an act dangerous to human life that is a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States; and

"(B) appears to be intended—

"(i) to intimidate or coerce a civilian population;

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[1] Sec. 46 of Public Law 99-646 (100 Stat. 3601) struck out "title V of the Organized Crime Control Act of 1970" at this point and inserted in lieu thereof "chapter 224 of this title".

"(ii) to influence the policy of a government by intimidation or coercion; or

"(iii) to affect the conduct of a government by assassination or kidnapping.

"(2) 'United States person' means—

"(A) a national of the United States as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

"(B) an alien lawfully admitted for permanent residence in the United States as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20));

"(C) any person within the United States;

"(D) any employee or contractor of the United States Government, regardless of nationality, who is the victim or intended victim of an act of terrorism by virtue of that employment;

"(E) a sole proprietorship, partnership, company, or association composed principally of nationals or permanent resident aliens of the United States; and

"(F) a corporation organized under the laws of the United States, any State, the District of Columbia, or any territory or possession of the United States, and a foreign subsidiary of such corporation.

"(3) 'United States property' means any real or personal property which is within the United States or, if outside the United States, the actual or beneficial ownership of which rests in a United States person or any Federal or State governmental entity of the United States.

"(4) [2] 'United States,' when used in a geographical sense, includes Puerto Rico and all territories and possessions of the United States;

"(5) 'State' includes any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other possession or territory of the United States.

"(6) 'government entity' includes the Government of the United States, any State or political subdivision thereof, any foreign country, and any state, provincial, municipal, or other political subdivision of a foreign country.

"(7) 'Attorney General' means the Attorney General of the United States or that official designated by the Attorney General to perform the Attorney General's responsibilities under this chapter.".

(b) The chapter analysis of part II of title 18, United States Code, is amended by adding after the item relating to chapter 203 the following new item:

"204. Rewards for information concerning terrorists acts .... 3071".

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[2] Sec. 7051 of Public Law 100-690 restated sec. 3077(4). This text was formerly designated as "(A)". "(B)" was struck out; it read as follows:

"(B) when used in the context of section 3073 shall have the meaning given to it in the Immigration and Nationality Act (8 U.S.C. 1101 et seq.)."

Subsec. (4) should probably end with a "."

AUTHORITY OF THE SECRETARY OF STATE

Sec. 102.[3] * * *

TITLE II—INTERNATIONAL COOPERATION

INCREASING INTERNATIONAL COOPERATION TO COMBAT TERRORISM

Sec. 201. (a) The President is urged to seek more effective international cooperation in combatting international terrorism, including—

(1) severe punishment for acts of terrorism, which endanger the lives of diplomatic staff, military personnel, other government personnel, or private citizens; and

(2) extradition of all terrorists and their accomplices to the country where the terrorist incident occurred or whose citizens were victims of the incident.

(b) High priority should also be given to negotiations leading to the establishment of a permanent international working group which would combat international terrorism by—

(1) promoting international cooperation among countries;

(2) developing new methods, procedures, and standards to combat international terrorism;

(3) negotiating agreements for exchanges of information and intelligence and for technical assistance; and

(4) examining the use of diplomatic immunity and diplomatic facilities to further international terrorism.

This working group should have subgroups or appropriate matters, including law enforcement and crisis management.

TITLE III—SECURITY OF UNITED STATES MISSIONS ABROAD

ADVISORY PANEL ON SECURITY OF UNITED STATES MISSIONS ABROAD

Sec. 301. In light of continued terrorist incidents and given the ever increasing threat of international terrorism directed at United States missions and diplomatic personnel abroad, the Congress believes that it is imperative that the Department of State review its approach to providing security against international terrorism. Not later than February 1, 1985, the Secretary of State shall report to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives on the findings and recommendations of the Advisory Panel on Security of United States Missions Abroad.

SECURITY ENHANCEMENT AT UNITED STATES MISSIONS ABROAD

Sec. 302. (a) In addition to amounts otherwise authorized to be appropriated, there are authorized to be appropriated, without fiscal year limitation—

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[3] Sec. 102 amended the State Department Basic Authorities Act of 1956 by adding a new sec. 36.

(1) [4] $350,963,000 for the Department of State for "Administration of Foreign Affairs", and

(2) $5,315,000 for the United States Information Agency, which amounts shall be for security enhancement at United States missions abroad.

(b) Not later than February 1, 1985, the Secretary of State and the Director of the United States Information Agency shall each report to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives on how their respective agencies have allocated the funds authorized to be appropriated by this section.

STATE DEPARTMENT BASIC AUTHORITIES

Sec. 303.[5] * * *

DANGER PAY

Sec. 304. In recognition of the current epidemic of worldwide terrorist activity and the courage and sacrifice of employees of United States agencies overseas, civilian as well as military, it is the sense of Congress that the provisions of section 5928 of title 5, United States Code, relating to the payment of danger pay allowance, should be more extensively utilized at United States missions abroad.

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[4] Sec. 139 of the Continuing Appropriations Act, 1985 (Public Law 98-473, 98 Stat. 1973) provided $110,200,000 to increase security at U.S. missions overseas.

[5] Sec. 303 amended sec. 2 of the State Department Basic Authorities Act of 1956.

e. Hostage Relief Act of 1980

Public Law 96–449 [H.R. 7085], 94 Stat. 1967, approved October 14, 1980

AN ACT To provide certain benefits to individuals held hostage in Iran and to similarly situated individuals, and for other purposes.[1]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Hostage Relief Act of 1980".

TITLE I—SPECIAL PERSONNEL BENEFITS

DEFINITIONS

Sec. 101. For purposes of this title—

(1) The term "American hostage" means any individual who, while—

(A) in the civil service or the uniformed services of the United States, or

(B) a citizen or resident alien of the United States rendering personal service to the United States abroad similar to the service of a civil officer or employee of the United States (as determined by the Secretary of State),

is placed in a captive status during the hostage period.

(2) The term "hostage period" means the period beginning on November 4, 1979, and ending on the later of—

(A) the date the President specifies, by Executive order, as the date on which all citizens and resident aliens of the United States who were placed in a captive status due to the seizure of the United States Embassy in Iran have been returned to the United States or otherwise accounted for, or

(B) January 1, 1983.

(3) The term "family member", when used with respect to any American hostage, means—

(A) any dependent (as defined in section 5561 of title 5, United States Code) of such hostage; and

(B) any member of the hostage's family or household (as determined under regulations which the Secretary of State shall prescribe).

(4) The term "captive status" means a missing status arising because of a hostile action abroad—

(A) which is directed against the United States during the hostage period; and

(B) which is identified by the Secretary of State in the Federal Register.

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[1] 5 U.S.C. 5561 note.

(5) The term "missing status"—

(A) in the case of employees, has the meaning given it in section 5561(5) of title 5, United States Code;

(B) in the case of members of the uniformed services, has the meaning given it in section 551(2) of title 37, United States Code; and

(C) in the case of other individuals, has a similar meaning as that provided under such sections, as determined by the Secretary of State.

(6) The terms "pay and allowances", "employee", and "agency" have the meanings given to such terms in section 5561 of title 5, United States Code, and the terms "civil service", "uniformed services", and "armed forces" have the meanings given to such terms in section 2101 of such title 5.

PAY AND ALLOWANCES MAY BE ALLOTTED TO SPECIAL SAVINGS FUND

Sec. 102. (a) The Secretary of the Treasury shall establish a savings fund to which the head of an agency may allot all or any portion of the pay and allowances of any American hostage which are for pay periods during which the American hostage is in a captive status and which are not subject to an allotment under section 5563 of title 5, United States Code, under section 553 of title 37, United States Code, or under any other provision of law.

(b) Amounts so allotted to the savings fund shall bear interest at a rate which, for any calendar quarter, shall be equal to the average rate paid on United States Treasury bills with three-month maturities issued during the preceding calendar quarter. Such interest shall be compounded quarterly.

(c) Amounts may be allotted to the savings fund from pay and allowances for any pay period ending after November 4, 1979, and before the establishment of the savings fund. Interest on amounts allotted from the pay and allowances for any such pay period shall be calculated as if the allotment had occurred at the end of the pay period.

(d) Amounts in the savings fund credited to any American hostage shall be considered as pay and allowances for purposes of section 5563 of title 5, United States Code (or in the case of a member of the uniformed services, for purposes of section 553 of title 37, United States Code) and shall otherwise be subject to withdrawal under procedures which the Secretary of the Treasury shall establish.

MEDICAL AND HEALTH CARE AND RELATED EXPENSES

Sec. 103. Under regulations prescribed by the President, the head of an agency may pay (by advancement or reimbursement) any individual who is an American hostage, or any family member of such an individual, for medical and health care, and other expenses related to such care, to the extent such care—

(1) is incident to that individual being an American hostage; and

(2) is not covered by insurance.

EDUCATION AND TRAINING

Sec. 104. (a)(1) Under regulations prescribed by the President, the head of an agency shall pay (by advancement or reimbursement) a spouse or child of an American hostage for expenses incurred for subsistence, tuition, fees, supplies, books, and equipment, and other educational expenses, while attending an educational or training institution.

(2) Except as provided in paragraph (3), payments shall be available under this subsection for a spouse or child of an individual who is an American hostage for education or training which occurs—

(A) after the nineteenth day after the date the individual is placed in a captive status, and

(B) on or before—

(i) the end of any semester or quarter (as appropriate) which begins before the date on which the hostage ceases to be in a captive status, or

(ii) if the educational or training institution is not operated on a semester or quarter system, the earlier of the end of any course which began before such date or the end of the twelve-week period following that date.

In order to respond to special circumstances, the President may specify a date for purposes of cessation of assistance under subparagraph (B) which is later than the date which would otherwise apply under subparagraph (B).

(3) In the event an American hostage dies and the death is incident to that individual being an American hostage, payments shall be available under this subsection for a spouse or child of an individual who is an American hostage for education or training which occurs after the date of death.

(4) The preceding provisions of this subsection shall not apply with respect to any spouse or child who is eligible for assistance under chapter 35 of title 38, United States Code.

(b)(1) In order to respond to special circumstances, the head of an agency may, under regulations prescribed by the President, pay (by advancement or reimbursement) an American hostage for expenses incurred for subsistence, tuition, fees, supplies, books, and equipment, and other educational expenses, while attending an educational or training institution.

(2) Payments shall be available under this subsection for an American hostage for education or training which occurs—

(A) after the termination of such hostages' captive status, and

(B) on or before—

(i) the end of any semester or quarter (as appropriate) which begins before the date which is 10 years after the day on which the hostage ceases to be in a captive status, or

(ii) if the educational or training institution is not operated on a semester or quarter system, the earlier of the end of any course which began before such date or the end of the twelve-week period following that date.

(c) Assistance under this section shall be discontinued for any individual whose conduct or progress is unsatisfactory under standards consistent with those established pursuant to section 1724 of title 38, United States Code.

(d) In no event may assistance be provided under this section for any individual for a period in excess of forty-five months (or the equivalent thereof in part-time education or training).

(e) Regulations prescribed by the President under this section shall provide that the program under this section be consistent with the assistance program under chapters 35 and 36 of title 38, United States Code.

EXTENSION OF APPLICABILITY OF CERTAIN BENEFITS OF THE SOLDIERS' AND SAILORS' CIVIL RELIEF ACT OF 1940

Sec. 105. (a) Under regulations prescribed by the President, an American hostage is entitled to the benefits provided by the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. App. 501 et seq.), including the benefits provided by section 701 (50 U.S.C. App. 591) but excluding the benefits provided by sections 104, 105, 106, 400 through 408, 501 through 512, and 514 (50 U.S.C. App. 514, 515, 516, 540 through 548, 561 through 572, and 574).

(b) In applying such Act for purposes of this section—

(1) the term "person in the military service" is deemed to include any such American hostage;

(2) the term "period of military service" is deemed to include the period during which such American hostage is in a captive status; and

(3) references to the Secretary of the Army, the Secretary of the Navy, the Adjutant General of the Army, the Chief of Naval Personnel, and the Commandant, United States Marine Corps, are deemed to be references to the Secretary of State.

(c) The preceding provisions of this section shall not apply with respect to any American hostage covered by such provisions of the Soldiers' and Sailors' Civil Relief Act of 1940 by reason of being in the Armed Forces.

APPLICABILITY TO COLOMBIAN HOSTAGE

Sec. 106. Notwithstanding the requirements of section 101(1), for purposes of this title, Richard Starr of Edmonds, Washington, who, as a Peace Corps volunteer, was held captive in Colombia and released on or about February 10, 1980, shall be held and considered to be an American hostage placed in a captive status on November 4, 1979.

EFFECTIVE DATE

Sec. 107. The preceding provisions of this title shall take effect as of November 4, 1979.

TITLE II—TAX PROVISIONS

SEC. 201. COMPENSATION EXCLUDED FROM GROSS INCOME

For purposes of the Internal Revenue Code of 1954, the gross income of an individual who was at any time an American hostage does not include compensation from the United States received for any month during any part of which such individual was—

(1) in captive status, or

(2) hospitalized as a result of such individual's captive status.

SEC. 202. INCOME TAXES OF HOSTAGE WHERE DEATH RESULTS FROM CAPTIVE STATUS

(a) GENERAL RULE.—In the case of an individual who was at any time an American hostage and who dies as a result of injury or disease or physical or mental disability incurred or aggravated while such individual was in captive status—

(1) any tax imposed by subtitle A of the Internal Revenue Code of 1954 shall not apply with respect to—

(A) the taxable year in which falls the date of such individual's death, or

(B) any prior taxable year ending on or after the first day such individual was in captive status, and

(2) any tax imposed under such subtitle A for taxable years preceding those specified in paragraph (1) which is unpaid at the date of such individual's death (including interest, additions to the tax, and additional amounts)—

(A) shall not be assessed,

(B) if assessed, the assessment shall be abated, and

(C) if collected, shall be credited or refunded as an overpayment.

(b) DEATH MUST OCCUR WITHIN 2 YEARS OF CESSATION OF CAPTIVE STATUS.—This section shall not apply unless the death of the individual occurs within 2 years after such individual ceases to be in captive status.

SEC. 203. SPOUSE MAY FILE JOINT RETURN

(a) GENERAL RULE.—If an individual is an American hostage who is in captive status, such individual's spouse may elect to file a joint return under section 6013(a) of the Internal Revenue Code of 1954 for any taxable year—

(1) which begins on or before the day which is 2 years after the date on which the hostage period ends, and

(2) for which such spouse is otherwise entitled to file such a joint return.

(b) CERTAIN RULES MADE APPLICABLE.—For purposes of subsection (a), paragraphs (2) and (4) of section 6013(f) of such Code (relating to joint return where individual is in missing status) shall apply as if the election described in subsection (a) of this section were an election described in paragraph (1) of such section 6013(f).

SEC. 204. TIME FOR PERFORMING CERTAIN ACTS POSTPONED BY REASON OF CAPTIVE STATUS

(a) GENERAL RULE.—In the case of any individual who was at any time an American hostage, any period during which he was in captive status (and any period during which he was outside the United States and hospitalized as a result of captive status), and the next 180 days thereafter, shall be disregarded in determining, under the internal revenue laws, in respect of any tax liability (including any interest, penalty, additional amount, or addition to the tax) of such individual—

(1) whether any of the acts specified in paragraph (1) of section 7508(a) of the Internal Revenue Code of 1954 was performed within the time prescribed therefor, and

(2) the amount of any credit or refund (including interest).

(b) APPLICATION TO SPOUSE.—The provisions of this section shall apply to the spouse of any individual entitled to the benefits of subsection (a). The preceding sentence shall not cause this section to apply to any spouse for any taxable year beginning more than 2 years after the date on which the hostage period ends.

(c) SECTION 7508(d) MADE APPLICABLE.—Subsection (d) of section 7508 of the Internal Revenue Code of 1954 shall apply to subsection (a) in the same manner as if the benefits of subsection (a) were provided by subsection (a) of such section 7508.

SEC. 205. DEFINITIONS AND SPECIAL RULES.

(a) AMERICAN HOSTAGE.—For purposes of this title, the term "American hostage" means any individual who, while—

(1) in the civil service or the uniformed services of the United States, or

(2) a citizen or resident alien of the United States rendering personal service to the United States abroad similar to the service of a civil officer or employee of the United States (as determined by the Secretary of State),

is placed in a captive status during the hostage period.

(b) HOSTAGE PERIOD.—For purposes of this title, the term "hostage period" means the period beginning on November 4, 1979, and ending on whichever of the following dates is the earlier:

(1) the date the President specifies, by Executive order, as the date on which all citizens and resident aliens of the United States who were placed in a captive status due to the seizure of the United States Embassy in Iran have been returned to the United States or otherwise accounted for, or

(2) December 31, 1981.

(c) CAPTIVE STATUS.—For purposes of this title—

(1) IN GENERAL.—The term "captive status" means a missing status arising because of a hostile action abroad—

(A) which is directed against the United States during the hostage period, and

(B) which is identified by the Secretary of State in the Federal Register.

(2) MISSING STATUS DEFINED.—The term "missing status"—

(A) in the case of employees, has the meaning given it in section 5561(5) of title 5, United States Code,

(B) in the case of members of the uniformed services, has the meaning given it in section 551(2) of title 37, United States Code, and

(C) in the case of other individuals, has a similar meaning as that provided under such sections, as determined by the Secretary of State.

For purposes of the preceding sentence, the term "employee" has the meaning given to such term by section 5561(2) of title 5, United States Code.

(d) HOSPITALIZED AS A RESULT OF CAPTIVE STATUS.—

(1) In general.—For purposes of this title, an individual shall be treated as hospitalized as a result of captive status if such individual is hospitalized as a result of injury or disease or physical or mental disability incurred or aggravated while such individual was in captive status.

(2) 2-year limit.—Hospitalization shall be taken into account for purposes of paragraph (1) only if it is hospitalization—

(A) occurring on or before the day which is 2 years after the date on which the individual's captive status ends (or, if earlier, the date on which the hostage period ends), or

(B) which is part of a continuous period of hospitalization which began on or before the day determined under subparagraph (A).

(e) Civil Service; Uniformed Services.—For purposes of this section, the terms "civil service" and "uniformed services" have the meanings given to such terms by section 2101 of title 5, United States Code.

(f) Application of Title to All Tehran Hostages.—In the case of any citizen or resident alien of the United States who is determined by the Secretary of State to have been held hostage in Tehran at any time during November 1979, for purposes of this title—

(1) such individual shall be treated as an American hostage whether or not such individual meets the requirements of paragraph (1) or (2) of subsection (a), and

(2) if such individual was not in the civil service or the uniformed services of the United States—

(A) section 201 shall be applied by substituting "earned income (as defined in section 911(b) of the Internal Revenue Code of 1954) attributable to" for "compensation from the United States received for", and

(B) the amount excluded from gross income under section 201 for any month shall not exceed the monthly equivalent of the annual rate of basic pay payable for level V of the Executive Schedule.

(g) Application of Title to Individual Held Captive in Colombia.—For purposes of this title, Richard Starr of Edmonds, Washington, who, as a Peace Corps volunteer, was held captive in Colombia, shall be treated as an American hostage who was in captive status beginning on November 4, 1979, and ending on February 10, 1980.

(h) Special Rules.—

(1) Compensation.—For purposes of this title, the term "compensation" shall not include any amount received as an annuity or as retirement pay.

(2) Wage withholding.—Any amount excluded from gross income under section 201 shall not be treated as wages for purposes of chapter 24 of the Internal Revenue Code of 1954.

SEC. 206. STUDY OF TAX TREATMENT OF HOSTAGES

(a) Study.—The Chief of Staff of the Joint Committee on Taxation shall study all aspects of the tax treatment of citizens and resident aliens of the United States who are taken hostage or are otherwise placed in a missing status.

(b) REPORT.—The Chief of Staff of the Joint Committee on Taxation shall, before July 1, 1981, report the results of the study made pursuant to subsection (a) to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

TITLE III—TREATMENT OF THE HOSTAGES IN IRAN

VISITS BY THE INTERNATIONAL RED CROSS

Sec. 301. (a) The Congress finds that—

(1) the continued illegal and unjustified detention of the American hostages by the Government of Iran has resulted in the deterioration of relations between the United States and Iran; and

(2) the protracted length and the conditions of their confinement have reportedly endangered the physical and mental well-being of the hostages.

(b) Therefore, it is the sense of the Congress that the President should make a formal request of the International Committee of the Red Cross to—

(1) make regular and periodic visits to the American hostages being held in Iran for the purpose of determining whether the hostages are being treated in a humane and decent manner and whether they are receiving proper medical attention;

(2) urge other countries to solicit the cooperation of the Government of Iran in the visits to the hostages by the International Committee of the Red Cross; and

(3) report to the United States its findings after each such visit.

f. Hostage Relief Act of 1980—Delegation of Authority

Executive Order 12268, January 15, 1981, 46 F.R. 4671

By the authority vested in me as President by the Constitution and statutes of the United States of America, including the Hostage Relief Act of 1980 (Public Law 96-449, 94 Stat. 1967, 5 U.S.C. 5561 note) and Section 301 of Title 3 of the United States Code, and in order to provide for the implementation of that Act, it is hereby ordered as follows:

1-101. The functions vested in the President by Sections 103, 104, 105 and 301 of the Hostage Relief Act of 1980 (5 U.S.C. 5561 note) are delegated to the Secretary of State.

1-102. The Secretary of State shall consult with the heads of appropriate Executive agencies in carrying out the functions in Sections 103, 104, and 105 of the Act.

4. Passport Laws and Regulations

a. Protection of Citizens Abroad [1]

Act of July 27, 1868 [R.S. Sec. 2001], 15 Stat. 224; 22 U.S.C. 1732

Whenever it is made known to the President that any citizen of the United States has been unjustly deprived of his liberty by or under the authority of any foreign government, it shall be the duty of the President forthwith to demand of that government the reasons of such imprisonment; and if it appears to be wrongful and in violation of the rights of American citizenship, the President shall forthwith demand the release of such citizen, and if the release so demanded is unreasonably delayed or refused, the President shall use such means, not amounting to acts of war, as he may think necessary and proper to obtain or effectuate the release; and all the facts and proceedings relative thereto shall as soon as practicable be communicated by the President to Congress.

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[1] Sec. 108 of the Foreign Relations Authorization Act, Fiscal Year 1978 (Public Law 95-105, 91 Stat. 846) contained a sense of the Congress regarding Americans incarcerated abroad. For text, see page 169. Sec. 611 of the Foreign Relations Authorization Act, Fiscal Year 1979 (92 Stat. 989) concerned equitable treatment of U.S. citizens living abroad. For text, see page 163.

b. Passport Authority

(1) Secretary of State's Passport Authority [1]

Partial text of Act of July 3, 1926 [H.R. 12495], 44 Stat. 887; 22 U.S.C. 211a as amended by Public Law 95-426 [Foreign Relations Authorization Act, Fiscal Year 1979; H.R. 12598], 92 Stat. 963 at 971, approved October 7, 1978

The Secretary of State may grant and issue passports, and cause passports to be granted, issued, and verified in foreign countries by diplomatic representatives of the United States, and by such consul generals, consuls, or vice consuls when in charge, as the Secretary of State may designate, and by the chief or other executive officer of the insular possessions of the United States, under such rules as the President shall designate and prescribe for and on behalf of the United States, and no other person shall grant, issue, or verify such passports. Unless authorized by law, a passport may not be designated as restricted for travel to or for use in any country other than a country with which the United States is at war, where armed hostilities are in progress, or where there is imminent danger to the public health or the physical safety of United States travellers.[2]

(2) Partial Text of Executive Order 11295, August 5, 1966, 31 F.R. 10603

Section 1. Delegation of authority. The Secretary of State is hereby designated and empowered to exercise, without the approval, ratification, or other action of the President, the authority conferred upon the President by the first section of the Act of July 3, 1926 (22 U.S.C. 211a), to designate and prescribe for and on behalf of the United States rules governing the granting, issuing, and verifying of passports.

Sec. 2. Superseded orders. Subject to Section 3 of this order, the following are hereby superseded:

(1) Executive Order No. 7856 of March 31, 1938, entitled "Rules Governing the Granting and Issuing of Passports in the United States."

(2) Executive Order No. 8820 of July 11, 1941, entitled "Amending the Foreign Service Regulations of the United States."

Sec. 3. Saving provisions. All rules and regulations contained in the Executive order provisions revoked by Section 2 of this order, and all rules and regulations issued under the authority of those provisions, which are in force at the time of the issuance of this order shall remain in full force and effect until revoked, or except as they may be hereafter amended or modified, in pursuance of the authority conferred by this order, unless sooner terminated by operation of law.

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[1] Sec. 125 of the Foreign Relations Authorization Act, Fiscal Year 1979 (92 Stat. 971) concerned diplomatic and official passports For text, see page 152.

[2] This sentence was added by sec. 124 of Public Law 95-426 (92 Stat. 971). Sec. 124 also stated that the purpose of this amendment was to achieve greater U.S. compliance with the 1975 Helsinki Agreement as well as to encourage other nations to more fully comply.

c. Passport Limitations

(1) Allegiance to the United States

Act of July 14, 1902 [R.S. Sec. 4076], 32 Stat. 386; 22 U.S.C. 212

No passport shall be granted or issued to or verified for any other persons than those owing allegiance, whether citizens or not, to the United States.

(2) Application for Passport

Partial text of Act of June 15, 1917 [H.R. 291], 40 Stat. 217 at 227; 22 U.S.C. 213, as amended by Public Law 90-428 [S. 1418], 82 Stat. 446, approved July 26, 1968

Section 1. Before a passport is issued to any person by or under authority of the United States such person shall subscribe to and submit a written application which shall contain a true recital of each and every matter of fact which may be required by law or by any rules authorized by law to be stated as a prerequisite to the issuance of any such passport. If the applicant has not previously been issued a United States passport, the application shall be duly verified by his oath before a person authorized and empowered by the Secretary of State to administer oaths.

NOTE.—See, however, *Woodward* v. *Rogers,* 344 F. Supp. 974 (D.C.D.C. 9 1972); aff., 486 F. 2d 1317 (D.C. Cir. 1973).

(3) Ten Year Validity of Passport

Partial text of the Act of July 3, 1926 [H.R. 12495], 44 Stat. 887; 22 U.S.C. 217a, as amended by Public Law 71-488 [H.R. 10826], 46 Stat. 839, approved July 1, 1930; Public Law 72-136 [H.R. 9393], 47 Stat. 157, approved May 16, 1932; Public Law 86-267 [S. 1973], 73 Stat. 552, approved September 14, 1959; Public Law 90-428 [S. 1418], 82 Stat. 446, approved July 26, 1968; and by Public Law 97-241 [S. 1193], 96 Stat. 273 at 279, approved August 24, 1982

Sec. 2.[1] A passport shall be valid for a period of ten years from the date of issue, except that the Secretary of State may limit the validity of a passport to a period of less than ten years in an individual case or on a general basis pursuant to regulation.

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[1] Sec. 116(b) of Public Law 97-241 (96 Stat. 279) amended and restated sec. 2 and applied only to passports issued after the date of enactment of Public Law 97-241 (August 24, 1982). Formerly, sec. 2 had provided that a passport would be valid for 5 years.

(4) Fees

Partial text of the Act of June 4, 1920 [H.R. 11960], 41 Stat. 739 at 750; 22 U.S.C. 214, as amended by Public Law 84-403 [H.R. 5844], 70 Stat. 11, approved February 10, 1956; Public Law 90-428 [S. 1418], 82 Stat. 446, approved July 26, 1968; Public Law 92-14 [S. 531], 85 Stat. 38, approved May 14, 1971; Public Law 93-417 [H.R. 15172], 88 Stat. 1151, approved September 17, 1974; and by Public Law 97-241 [S. 1193], 96 Stat. 273 at 279, approved August 24, 1982

There shall be collected and paid into the Treasury of the United States a fee, prescribed by the Secretary of State by regulation, for each passport issued and a fee, prescribed by the Secretary of State by regulation, for executing each application for a passport.[2] Nothing contained in this section shall be construed to limit the right of the Secretary of State by regulation (1) to authorize State officials to collect and retain the execution fee, or (2) to transfer to the United States Postal Service the execution fee for each application accepted by that Service. No passport fee shall be collected from an officer or employee of the United States proceeding abroad in the discharge of official duties, or from members of his immediate family; from an American seaman who requires a passport in connection with his duties aboard an American-flag vessel; or from a widow, child, parent, brother, or sister of a deceased member of the Armed Forces proceeding abroad to visit the grave of such member. No execution fee shall be collected for an application made before a Federal official by a person excused from payment of the passport fee under this section.

[(5) Denial of Passports to Members of Communist Organizations

[Partial text of Internal Security Act of 1950, Act of September 23, 1950 [H.R. 9490], 64 Stat. 987 at 993; 50 U.S.C. 785, as amended by Public Law 83-637 [S. 3706], 68 Stat. 775 at 778, approved August 24, 1954

[**Sec. 6.**[3] (a) When a Communist organization as defined in paragraph (5) of section 3 of this title is registered, or there is in effect a final order of the Board requiring such organization to register, it shall be unlawful for any member of such organization, with knowledge or notice that such organization is so registered or that such order has become final—

[(1) to make application for a passport, or the renewal of a passport, to be issued or renewed by or under the authority of the United States; or

[(2) to use or attempt to use any such passport.

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[2] Sec. 116(a) of Public Law 97-241 (96 Stat. 279) amended and restated this sentence. Previously, this sentence established a fee of $10 for each passport issued in addition to the fee prescribed by the Secretary of State for executing each application.

[3] Sec. 6 of the Internal Security Act was held to be unconstitutional by the Supreme Court in the case of *Aptheker* v. *Secretary of State*, 378 U.S. 500, decided June 22, 1964.

[(b) When an organization is registered, or there is in effect a final order of the Board requiring an organization to register, as a Communist-action organization, it shall be unlawful for any officer or employee of the United States to issue a passport to, or renew the passport of, any individual knowing or having reason to believe that such individual is a member of such organization.] [4]

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[4] 50 U.S.C. 794 provided:

"Any organization which violates any provision of section 789 of this title shall, upon conviction thereof, be punished for each such violation by a fine of not more than $10,000. Any individual who violates any provision of section 784 or 789 of this title shall, upon conviction thereof, be punished for each such violation by a fine of not more than $10,000 or by imprisonment for not more than five years, or by both such fine and imprisonment. (Sept. 23, 1950, ch. 1024, title I, § 15, 64 Stat. 1002; Jan. 2, 1968, Public Law 90-237, § 13, 81 Stat. 771)."

d. Travel Documentation of Aliens and Citizens [1]

Partial text of the Immigration and Nationality Act of 1952, Act of June 27, 1952 [H.R. 5678], 66 Stat. 190, 8 U.S.C. 1185, as amended by Public Law 95-426 [Foreign Relations Authorization Act, Fiscal Year 1979; H.R. 12598], 92 Stat. 963 at 992, approved October 7, 1978

* * * * * * *

Sec. 215. (a) Unless otherwise ordered by the President, it shall be unlawful—[2]

(1) for any alien to depart from or enter or attempt to depart from or enter the United States except under such reasonable rules, regulations, and orders, and subject to such limitations and exceptions as the President may prescribe;

(2) for any person to transport or attempt to transport from or into the United States another person with knowledge or reasonable cause to believe that the departure or entry of such other person is forbidden by this section;

(3) for any person knowingly to make any false statement in an application for permission to depart from or enter the United States with intent to induce or secure the granting of such permission either for himself or for another;

(4) for any person knowingly to furnish or attempt to furnish or assist in furnishing to another a permit or evidence of permission to depart or enter not issued and designed for such other person's use;

(5) for any person knowingly to use or attempt to use any permit or evidence of permission to depart or enter not issued and designed for his use;

(6) for any person to forge, counterfeit, mutilate, or alter, or cause or procure to be forged, counterfeited, mutilated, or altered, any permit or evidence of permission to depart from or enter the United States;

(7) for any person knowingly to use or attempt to use or furnish to another for use any false, forged, counterfeited, mutilated, or altered permit, or evidence of permission, or any permit or evidence of permission which, though originally valid, has become or been made void or invalid.

(b) [3] Except as otherwise provided by the President and subject to such limitations and exceptions as the President may authorize and prescribe, it shall be unlawful for any citizen of the United States to depart from or enter, or attempt to depart from or enter, the United States unless he bears a valid passport.

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[1] See also "Privileges and Immunities" in sec. H, page 978.

[2] Sec. 707 of Public Law 95-426 (92 Stat. 992) struck out the words to this point in sec. 215(a) and added this phrase.

[3] Subsec. (b) was amended and restated by sec. 707(b) of Public Law 95-426 (92 Stat. 992).

(c)[4] The term "United States" as used in this section includes the Canal Zone, and all territory and waters, continental or insular, subject to the jurisdiction of the United States. The term "person" as used in this section shall be deemed to mean by individual, partnership, association, company, or other incorporated body of individuals, or corporation, or body politic.

(d)[4] Nothing in this section shall be construed to entitle an alien to whom a permit to enter the United States has been issued to enter the United States, if upon arrival in the United States, he is found to be inadmissible under any of the provisions of this Act, or any other law, relating to the entry of aliens into the United States.

(e)[4] The revocation of any[5] rule, regulation, or order issued in pursuance of this section shall not prevent prosecution, for any offense committed, or the imposition of any penalties or forfeitures, liability for which was incurred under this section prior to the revocation of such[5] rule, regulation, or order.

(f)[4] Passports, visas, reentry permits, and other documents required for entry under this Act may be considered as permits to enter for the purposes of this section.[6]

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[4] Sec. 707(d) of Public Law 95–426 (92 Stat. 993) struck out subsec. (c) and redesignated subsecs. (d), (e), (f), and (g) as subsecs. (c), (d), (e), and (f), respectively.

[5] Sec. 707(c) of Public Law 95–426 (92 Stat. 993) struck out the word "proclamation" which previously appeared at this point.

[6] See also *United States* v. *Laub*, 385 U.S. 475 (1967), to the effect that a conviction did not lie under sec. 215(b) of the Immigration and Nationality Act of 1952, 8 U.S.C. 1185(b), which was the basis of the criminal charge in that case.

e. Criminal Provisions

(1) Punishable Violations

Partial text of Public Law 80-772 [H.R. 3190], 62 Stat. 683 at 771, 18 U.S.C. 1541-1545, approved June 25, 1948

* * * * * * *

Sec. 1541. Issuance Without Authority.

Whoever, acting or claiming to act in any office or capacity under the United States, or a State or possession, without lawful authority grants, issues, or verifies any passport or other instrument in the nature of a passport to or for any person whomsoever; or

Whoever, being a consular officer authorized to grant, issue, or verify passports, knowingly and willfully grants, issues, or verifies any such passport to or for any person not owing allegiance, to the United States, whether a citizen or not—

Shall be fined not more than $500 or imprisoned not more than one year, or both.

Sec. 1542. False Statement in Application and Use of Passport.

Whoever willfully and knowingly makes any false statement in an application for passport with intent to induce or secure the issuance of a passport under the authority of the United States, either for his own use or the use of another, contrary to the laws regulating the issuance of passports or the rules prescribed pursuant to such laws; or

Whoever willfully and knowingly uses, or attempts to use, or furnishes to another for use any passport the issue of which was secured in any way by reason of any false statement—

Shall be fined not more than $2,000 or imprisoned not more than five years, or both.

Sec. 1543. Forgery or False Use of Passport.

Whoever falsely makes, forges, counterfeits, mutilates, or alters any passport or instrument purporting to be a passport, with intent that the same may be used; or

Whoever willfully and knowingly uses, or attempts to use, or furnishes to another for use any such false, forged, counterfeited, mutilated, or altered passport or instrument purporting to be a passport, or any passport validly issued which has become void by the occurrence of any condition therein prescribed invalidating the same—

Shall be fined not more than $2,000 or imprisoned not more than five years, or both.

Sec. 1544. Misuse of Passport.

Whoever willfully and knowingly uses, or attempts to use, any passport issued or designed for the use of another; or

Whoever willfully and knowingly uses, or attempts to use, any passport in violation of the conditions or restrictions therein contained or of the rules prescribed pursuant to the laws regulating the issuance of passports; or

Whoever willfully and knowingly furnishes, disposes of, or delivers a passport to any person, for use by another than the person for whose use it was originally issued and designed—

Shall be fined not more than $2,000 or imprisoned not more than five years, or both.

Sec. 1545. Safe Conduct Violation.

Whoever violates any safe conduct or passport duly obtained and issued under authority of the United States shall be fined not more than $2,000 or imprisoned not more than three years, or both.

Sec. 1546. Fraud and misuse of visas, permits and other entry documents.

Whoever knowingly forges, counterfeits, alters, or falsely makes any immigrant or non-immigrant visa, permit, or other document required for entry into the United States, or utters, uses, attempts to use, possesses, obtains, accepts, or receives such visa, permit, or document, knowing it to be forged, counterfeited, altered, or falsely made, or to have been procured by means of any false claim or statement, or to have been otherwise procured by fraud or unlawfully obtained; or

Whoever, except under direction of the Attorney General or the Commissioner of Immigration and Naturalization Service, or other proper officer, knowingly possesses any blank permit, or engraves, sells, brings into the United States, or has in his control or possession any blank plate in the likeness of a plate designed for the printing of permits, or makes any print, photograph, or impression in the likeness of an immigrant or nonimmigrant visa, permit or other document required for entry into the United States, or has in his possession a distinctive paper which has been adopted by the Attorney General or the Commissioner of the Immigration and Naturalization Service for the printing of such visas, permits, or documents; or

Whoever, when applying for an immigrant or nonimmigrant visa, permit, or other document required for entry into the United States, or for admission to the United States personates another, or falsely appears in the name of a deceased individual, or evades or attempts to evade the immigration laws by appearing under an assumed or fictitious name without disclosing his true identity, or sells or otherwise disposes of, or offers to sell or otherwise disposes of, or utters, such visa, permit, or other document, to any person not authorized by law to receive such document; or

Whoever knowingly makes under oath, or as permitted under penalty of perjury under section 1746 of title 28, United States Code, knowingly subscribes as true, any false statement with respect to a material fact in any application, affidavit, or other document required by the immigration laws or regulations prescribed thereunder, or knowingly presents any such application, affidavit, or other document containing any such false statement—

Shall be fined not more than $2,000 or imprisoned not more than five years, or both.

(2) Statute of Limitations

Partial text of Act of June 30, 1951 [H.R. 2396], 65 Stat. 107, 18 U.S.C. 3291

AN ACT To amend chapter 213 of title 18 of the United States Code.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 213 of title 18 of the United States Code be amended by adding a new section to be known as section 3291, as follows:

"§ 3291. Nationality, citizenship and passports.

"No person shall be prosecuted, tried, or punished for violation of any provision of sections 1423 to 1428, inclusive, of chapter 69 and sections 1541 to 1544, inclusive, of chapter 75 of title 18 of the United States Code, or for conspiracy to violate any of the aforementioned sections, unless the indictment is found or the information is instituted within ten years after the commission of the offense."

5. Foreign Service Buildings

a. The Foreign Service Buildings Act, 1926, as amended

Public Law 69-186 [H.R. 10200], 44 Stat. 403, approved May 7, 1926, as amended by Public Law 70-586 [H.R. 10166], 45 Stat. 971, approved May 29, 1928; Public Law 79-33 [H.R. 685], 59 Stat. 53, approved April 19, 1945; Public Law 82-399 [H.R. 6661], 66 Stat. 140, approved June 19, 1952; Public Law 86-723 [S. 2633], 74 Stat. 847, approved September 8, 1960; Public Law 88-94 [H.R. 5207], 77 Stat. 121, approved August 12, 1963; Public Law 88-414 [H.R. 11754], 78 Stat. 387, approved August 10, 1964; Public Law 89-22 [H.R. 7064], 79 Stat. 112, approved May 29, 1965; Public Law 89-636 [H.R. 14019], 80 Stat. 881, approved October 10, 1966; Public Law 90-442 [H.R. 18065], 82 Stat. 461, approved July 30, 1968; Public Law 91-586 [H.R. 18012], 84 Stat. 1578, approved December 24, 1970; Public Law 93-47 [H.R. 5610], 87 Stat. 98, approved June 22, 1973; Public Law 93-263 [H.R. 12463], 88 Stat. 83, approved April 12, 1974; Public Law 94-141 [S. 1517], 89 Stat. 756, approved November 29, 1975; Public Law 94-350 [S. 3168], 90 Stat. 823, approved July 12, 1976; Public Law 95-45 [H.R. 5040], 91 Stat. 221, approved June 15, 1977; Public Law 95-105 [H.R. 6689], 91 Stat. 844 at 845, approved August 17, 1977; by Public Law 98-164 [Department of State Authorization Act, Fiscal Years 1984 and 1985; H.R. 2915], 97 Stat. 1017, approved November 22, 1983; and by Public Law 99-399 [Omnibus Diplomatic Security and Antiterrorism Act of 1986, H.R. 2151], 100 Stat. 863, approved August 27, 1986

AN ACT For the acquisition of buildings and grounds in foreign countries for the use of the Government of the United States of America.[1]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That [2] (a) [3] the Secretary of State is empowered to acquire by purchase or construction in the manner hereinafter provided, within the limits of appropriations made to carry out [4] this Act, or by exchange, in whole or in part, of any building or grounds of the United States in foreign countries and under the jurisdiction and control of the Secretary of State, sites and buildings in foreign capitals and in other foreign cities, and to alter, repair, and furnish such buildings for the use of the diplomatic and consular establishments of the United States, or for the purpose of consolidating within one or more buildings, the embassies, legation, consulates, and other agencies of the United States Government there maintained.[5] The space in such buildings shall be allotted by the Secretary of State[6] among the several agencies of the United States Government.

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[1] All references in this Act to the Foreign Service Buildings Commission were deleted by sec. 2 of Public Law 88-94 (77 Stat. 121).

[2] 22 U.S.C. 292. Sec. 1 was amended and restated by Public Law 70-586 (45 Stat. 971), and further amended by Public Law 88-94 (77 Stat. 122) and Public Law 89-636 (80 Stat. 881).

[3] Sec. 2 of Public Law 89-636 (80 Stat. 881), inserted the "(a)" and added subsec. (b).

[4] The words "to carry out" were substituted in lieu of "pursuant to" and "under authority of", respectively, by sec. 106(a) of the Foreign Relations Authorization Act, Fiscal Year 1978 (91 Stat. 845).

[5] Sec. 105 of the Foreign Relations Authorization Act, Fiscal Year 1979 (92 Stat. 965) directed the Secretary of State to implement projects for the application of solar energy or other forms of renewable energy in buildings acquired under this section. For text, see page 148.

(b)[3] Payments made for rent or otherwise by the United States from funds other than appropriations made to carry out[4] this Act may be credited toward the acquisition of property under this Act without regard to limitations of amounts imposed by this Act.

Sec. 2.[7] * * * [Repealed—1963]

Sec. 3.[8] Buildings and grounds acquired under this Act or heretofore acquired or authorized for the use of the diplomatic and consular establishments in foreign countries may[8] be used, in the case of buildings and grounds for the diplomatic establishment, as Government offices or residences or as such offices and residences; or, in the case of other buildings and grounds, as such offices or such offices and residences. The contracts for all work of construction, alteration, and repair under this Act are authorized to be negotiated, the terms of the contracts to be prescribed, and the work to be performed, where necessary[9] without regard to such statutory provisions as relate to the negotiation, making, and performance of contracts and performance of work in the United States and without regard to section 3648 of the Revised Statutes of the United States (31 U.S.C. 529).[10]

Sec. 4.[11] (a) For the purpose of carrying into effect the provisions of this Act there is hereby authorized to be appropriated an amount not exceeding $10,000,000, and the appropriations made pursuant to this authorization shall constitute a fund to be known as the Foreign Service Buildings Fund, to remain available until expended. Under this authorization not more than $2,000,000 shall be appropriated for any one year, but within the total authorization provided in this Act the Secretary of State[12] may enter into contracts for the acquisition of the buildings and grounds authorized by this Act. In the case of the buildings and grounds authorized by this Act, after the initial alterations, repairs, and furnishings have been completed, subsequent expenditures for such purposes may be made out of the appropriations authorized by this Act in amounts authorized by the Congress each year.[13]

(b)[14] For the purpose of carrying into effect the provisions of this Act there is hereby authorized to be appropriated, in addition to amounts previously authorized, an amount not to exceed $90,000,000, which shall be available exclusively for payments representing the value, in whole or in part, of property or credits in accordance with the provisions of the Act of July 25, 1946 (60 Stat. 663). Sums appropriated pursuant to this authorization shall remain available until expended.

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[6] Sec. 2(b)(4) of Public Law 89-94 (77 Stat. 121), added "The space in such buildings shall be allotted by the Secretary of State".

[7] Sec. 2(c) of Public Law 88-94 (77 Stat. 122), approved August 12, 1963, repealed sec. 2 of the 1926 Act, establishing the Foreign Service Buildings Commission; sec. 2(g) of the 1963 Act repealed all references to the Commission in all of the laws of the United States; and sec. 2(f) of the 1963 Act repealed sec. 1(e) of Reorganization Plan No. 2 of May 9, 1939 (53 Stat. 1432, 66 Stat. 140).

[8] 22 U.S.C. 294.

[9] Sec. 2(c)(1) of Public Law 88-94 (70 Stat. 122) deleted the phrases "subject to the direction of the Commission" and "in the judgment of the Commission".

[10] Sec. 2(c)(2) of Public Law 88-94 (70 Stat. 122), added "and without regard to * * * (31 U.S.C. 529)".

[11] 22 U.S.C. 295.

[12] Sec. 2(d) of Public Law 88-94 (70 Stat. 122), struck out the phrase "subject to the direction of the commission".

[13] Sec. 2 of Public Law 82-399 (66 Stat. 140), added the phrase "in amounts authorized by Congress each fiscal year".

[14] Added by sec. 2 of Public Law 82-399 (66 Stat. 140).

(c) [15] For the purpose of carrying into effect the provisions of this Act there is hereby authorized to be appropriated, in addition to amounts previously authorized, an amount not to exceed $10,000,000, which shall remain available until expended.

(d) In addition to amounts authorized before the date of enactment of this section, there is hereby authorized to be appropriated to the Secretary of State—

(1) [16] for acquisition by purchase or construction (including acquisition of leaseholds) of sites and buildings in foreign countries under this Act, and for major alterations of buildings acquired under this Act, the following sums—

(A) for use in Africa, not to exceed $7,140,000 of which not to exceed $3,270,000 may be appropriated for the fiscal year 1964;

(B) for use in the American Republics, not to exceed $5,360,000, of which not to exceed $4,030,000 may be appropriated for the fiscal year 1964;

(C) for use in Europe, not to exceed $6,839,000, of which not to exceed $1,820,000 may be appropriated for the fiscal year 1964;

(D) for use in the Far East, not to exceed $2,350,000, of which not to exceed $2,220,000 may be appropriated for the fiscal year 1964;

(E) for use in the Near East, not to exceed $2,710,000, of which not to exceed $2,100,000 may be appropriated for the fiscal year 1964;

(F) for facilities for the United States Information Agency,[17] not to exceed $1,125,000, of which not to exceed $720,000 may be appropriated for the fiscal year 1964; and

(G) for facilities for agricultural and defense attaché housing, not to exceed $800,000, of which not to exceed $400,000 may be appropriated for the fiscal year 1964;

(2) [18] for use to carry out the other purposes of this Act, not to exceed $11,500,000 for the fiscal year 1964, $12,000,000 for the fiscal year 1965, $12,200,000 for the fiscal year 1966, $12,400,000 for the fiscal year 1967.

(e) [19] For the purpose of carrying into effect the provisions of this Act in South Vietnam, there is hereby authorized to be appropriated, in addition to amounts previously authorized prior to the enactment of this amendment, $2,600,000, to remain available until expended.

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[15] Added by sec. 49 of Public Law 86-723 (74 Stat. 847).

[16] Par. (1) was added by sec. 1 of Public Law 88-94 (77 Stat. 121).

[17] Pursuant to sec. 7(a)(1) of Reorganization Plan No. 2 of 1977, all functions vested in the President, Secretary of State, the Department of State, the Director of the United States Information Agency, and the United States Information Agency by this Act were transferred to the Director of the International Communication Agency. The codified version of this Act has been changed to reflect this transfer of authority.

[18] Paragraph (2) was added by sec. 1 of Public Law 88-94 (77 Stat. 121); further amended and restated by Public Law 88-414 (78 Stat. 387); further amended by sec. 1(1) of Public Law 89-636 (80 Stat. 881).

[19] Subsec. (e) was added by Public Law 89-22 (79 Stat. 112) and amended by sec. 1(2) of Public Law 89-636 (80 Stat. 881), which struck out "$1,000,000" and inserted "$2,600,000".

(f) [20] In addition to amounts authorized before the date of enactment of this subsection, there is hereby authorized to be appropriated to the Secretary of State—

(1) for acquisition by purchase or construction (including acquisition of leaseholds) of sites and buildings in foreign countries under this Act, and for major alterations of buildings acquired under this Act, the following sums—

(A) for use in Africa, not to exceed $5,485,000, of which not to exceed $1,885,000 may be appropriated for the fiscal year 1967;

(B) for use in the American Republics, not to exceed $7,920,000, of which not to exceed $3,585,000 may be appropriated for the fiscal year 1967;

(C) for use in Europe, not to exceed $3,310,000, of which not to exceed $785,000 may be appropriated for the fiscal year 1967;

(D) for use in the Far East, not to exceed $3,150,000, of which not to exceed $2,890,000 may be appropriated for the fiscal year 1967;

(E) for use in the Near East, not to exceed $6,930,000, of which not to exceed $1,890,000 may be appropriated for the fiscal year 1967;

(F) for facilities for the United States Information Agency,[21] not to exceed $615,000, of which not to exceed $430,000 may be appropriated for the fiscal year 1967;

(G) for facilities for agricultural and defense attaché housing, not to exceed $800,000, of which not to exceed $400,000 may be appropriated for the fiscal year 1967;

(2) for use to carry out the other purposes of this Act, not to exceed $12,600,000 for the fiscal year 1968, not to exceed $12,750,000 for the fiscal year 1969, not to exceed $13,500,000 for the fiscal year 1970, not to exceed $14,300,000 for the fiscal year 1971, not to exceed $15,000,000 for the fiscal year 1972, and not to exceed $15,900,000 for the fiscal year 1973.

(g) [22] In addition to amounts authorized before the date of enactment of this subsection, there is hereby authorized to be appropriated to the Secretary of State—

(1) for acquisition by purchase or construction (including acquisition of leaseholds) of sites and buildings in foreign countries under this Act, and for major alterations of buildings acquired under this Act, the following sums—

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[20] Subsec. (f) was added by sec. 1(3) of Public Law 89-636, 80 Stat. 881, Oct. 10, 1966, Sums for fiscal years 1970 and 1971 were added by Public Law 90-442 (82 Stat. 461), and for fiscal years 1972 and 1973 by Public Law 91-586 (84 Stat. 1578).

[21] Pursuant to sec. 7(a)(1) of Reorganization Plan No. 2 of 1977, all functions vested in the President, Secretary of State, the Department of State, the Director of the United States Information Agency, and the United States Information Agency by this Act were transferred to the Director of the International Communication Agency. The codified version of this Act has been changed to reflect this transfer of authority.

[22] Subsec. (g) was added by Public Law 93-47, renumbering the old sec. (g) as (h) and inserting this new sec. (g).

(A) for use in Africa, not to exceed $850,000,[23] of which not to exceed $631,000 may be appropriated for the fiscal year 1974;

(B) for use in the American Republics, not to exceed $240,000,[24] of which not to exceed $240,000 may be appropriated for the fiscal year 1974;

(C) for use in Europe, not to exceed $682,000,[25] of which not to exceed $985,000 may be appropriated for the fiscal year 1974;

(D) for use in Africa, not to exceed $1,243,000,[26] of which not to exceed $204,000 may be appropriated for the fiscal year 1974;

(E) for use in the Near East and South Asia, not to exceed $10,433,000,[27] of which not to exceed $2,287,000 may be appropriated for the fiscal year 1974;

(F) for facilities for the United States Information Agency,[28] not to exceed $45,000 for use beginning in the fiscal year 1975;

(G) for facilities for agricultural and defense attaché housing, not to exceed $318,000 for use beginning in the fiscal year 1974; and

(2) for use to carry out other purposes of this Act for fiscal years 1974 and 1975, $48,532,000,[29] of which not to exceed $23,066,000 [29] may be appropriated for fiscal year 1974.

(h) [30] In addition to amounts authorized before the date of enactment of this subsection, there is authorized to be appropriated to the Secretary of State—

(1) for acquisition by purchase or construction (including acquisition of leaseholds) of sites and buildings in foreign countries under this Act, and for major alterations of buildings acquired under this Act, the following sums—

(A) [31] for use in Europe, not to exceed $225,000 for fiscal year 1977;

(B) [31] for use in the Near East and South Asia, not to exceed $12,885,000, of which not to exceed $3,985,000 may be appropriated for fiscal year 1976;

(C) [31] for facilities for the United States Information Agency, not to exceed $3,400,000, of which not to exceed $2,800,000 may be appropriated for fiscal year 1976;

(D) [31] for facilities for agricultural and defense attaché housing, not to exceed $150,000 for fiscal year 1977; and

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[23] Sec. 171(a)(1) of Public Law 94-141 struck out "$2,190,000" and inserted "$850,000".

[24] Sec. 171(a)(2) of Public Law 94-141 struck out "$375,000" and inserted "$240,000".

[25] Sec. 171(a)(3) of Public Law 94-141 struck out "$4,780,000" and inserted "$682,000".

[26] Sec. 171(a)(4) of Public Law 94-141 struck out "$2,190,000" and inserted "$1,243,000".

[27] Sec. 171(a)(5) of Public Law 94-141 struck out "$3,518,000" and inserted "$10,433,000".

[28] Pursuant to sec. 7(a)(1) of Reorganization Plan No. 2 of 1977, all functions vested in the President, Secretary of State, the Department of State, the Director of the United States Information Agency, and the United States Information Agency by this Act were transferred to the Director of the International Communication Agency. The codified version of this Act has been changed to reflect this transfer of authority.

[29] Sec. 1(4) of Public Law 92-263 (88 Stat. 83) struck out "$45,800,000" and "$21,700,000" and inserted "$48,532,000" and "$23,066,000," respectively.

[30] Sec. 171(b) of Public Law 94-141 redesignated subsec. (h) as subsec. (i) and inserted this new subsec. (h).

[31] Sec. 3 of Public Law 95-45 (91 Stat. 221) struck out subpars. (A) through (G) and inserted the new subpars. (A) through (E).

(E) [31] for facilities for the United States Agency for International Development, not to exceed $17,200,000 for fiscal year 1977; and

(2) for use to carry out the other purposes of this Act for fiscal years 1976 and 1977, $73,058,000,[32] of which not to exceed $32,840,000 may be appropriated for fiscal year 1976.

(i) [33] (1) Sums appropriated under authority of this Act shall remain available until expended. To the maximum extent feasible, expenditures under this Act shall be made out of foreign currencies owned by or owed to the United States.

(2) [34] Not to exceed 10 per centum of the funds authorized by any subparagraph under paragraph (1) of subsections (d), (f), (g), and (h) of this section may be used for any of the purposes for which funds are authorized under any other subparagraph of any of such paragraph (1).

(3) [35] There are hereby authorized to be appropriated to the Secretary of State such additional or supplemental amounts as may be necessary for increases in salary, pay, retirement, or other employee benefits authorized by law.

(j) [36] For the purpose of carrying into effect the provisions of this Act in the Union of Soviet Socialist Republics, there is authorized to be appropriated, in addition to amounts authorized prior to the enactment of this subsection, $30,000,000, which amount is authorized to remain available until expended.

Sec. 5.[37] For the purposes of this Act the Secretary of State is authorized to supervise, preserve, maintain, operate, and, when deemed necessary, to insure the Foreign Service properties in foreign countries and the other properties acquired in accordance with the provisions of this Act; to rent and insure objects of art; to collect information and formulate plans; and, without regard to civil service and classification laws, to obtain architectural and other expert technical services as may be necessary and pay therefor the scale of professional fees as established by local authority, law or custom, and to make expenditures without regard to that part of 52 Statutes 441 (22 U.S.C. 295a) requiring purchase of articles manufactured in the United States.

Sec. 6.[38] The authority granted to acquire sites and buildings by purchase or otherwise shall include authority to acquire leaseholds.[39]

Sec. 7. The Act entitled "An Act providing for the purchase or erection, within certain limits of cost, of embassy, legation, and consular buildings abroad," approved February 17, 1911, is repealed, but such repeal shall not invalidate appropriations already made under the authority of such Act.

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[32] Sec. 109(1) of the Foreign Relations Authorization Act, Fiscal Year 1977 (Public Law 94-350) substituted "$73,058,000" in lieu of "$71,600,000".

[33] Subsec. (i) was added by sec. 1(3) of Public Law 89-636 (80 Stat. 881) and redesignated subsec. (i) by sec. 171(b)(1) of Public Law 94-141.

[34] Par. (2) was added by Public Law 93-47 and revised by sec. 171(b)(2) of Public Law 94-141.

[35] Paragraph (3) was added by Public Law 93-47 of June 22, 1973.

[36] Subsec. (j) was added by sec. 109(2) of the Foreign Relations Authorization Act, Fiscal Year 1977 (Public Law 94-350).

[37] 22 U.S.C. 296. Sec. 5 was amended and restated by sec. 3 of Public Law 82-399 (66 Stat. 140).

[38] 22 U.S.C. 297. Sec. 6 was amended and restated by sec. 4 of Public Law 82-399 (66 Stat. 140).

[39] Sec. 106(b) of the Foreign Relations Authorization Act, Fiscal Year 1978, struck out the words "of not less than ten years" which formerly appeared at this point.

Sec. 8. This Act may be cited as the "Foreign Service Buildings Act, 1926".

Sec. 9.[40] **(a) The Secretary of State is authorized—**

(1) to sell, exchange, lease, or license any property or property interest acquired under this Act, or under other authority, for use of diplomatic and consular establishments in foreign countries,

(2) to receive payment in whatever form, or in kind, he determines to be in the interest of the United States for damage to or destruction of property acquired for use of diplomatic and consular establishments abroad, and the contents of such buildings, and

(3) to accept on behalf of the United States gifts of property or services of any kind made by will or otherwise for the purposes of this Act.

(b) Proceeds derived from dispositions, payments, or gifts under subsection (a) shall, notwithstanding the provisions of any other law, be applied toward acquisition, construction, or other purposes authorized by this Act or held in the Foreign Service Buildings Fund, as in the judgment of the Secretary may best serve the Government's interest: *Provided,* That the Secretary shall report all such transactions annually to the Congress with the budget estimates of the Department of State.

(c)[41] Notwithstanding subsection (b), proceeds from the disposition of furniture, furnishings, and equipment from diplomatic and consular establishments in foreign countries shall be deposited into the Foreign Service Building Fund to be available for obligation or expenditure as directed by the Secretary.

Sec. 10.[42] Notwithstanding the provisions of this or any other Act no lease or other rental arrangement for a period of less than ten years, and requiring an annual payment in excess of $25,000, shall be entered into by the Secretary of State for the purpose of renting or leasing offices, buildings, grounds, or living quarters for the use of the Foreign Service abroad, unless such lease or other rental arrangement is approved by the Secretary. The Secretary may delegate his authority under this section only to the Deputy Under Secretary of State for Administration or to the Director of the Office of Foreign Buildings. The Secretary shall keep the Congress fully and currently informed with respect to leases or other rental arrangements approved under this section.

Sec. 11.[43] (a) Eligibility for award of contracts under this Act or of any other contract by the Secretary of State, including leaseback or other agreements, the purpose of which is to obtain the construction, alteration, or repair of buildings and grounds abroad, when estimated to exceed $5,000,000, including any contract alternatives or options, shall be limited, after a determination that adequate competition will be obtained thereby, to (1) American-owned bidders and (2) bidders from countries which permit or agree to permit substantially equal access to American bidders for comparable diplomatic and consular building projects, except that participation may be permitted by or limited to host-country bidders where required by international agreement or by the law of the host country or where determined by the Secretary of State to be necessary in the interest of bilateral relations or necessary, to carry out the construction project.

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[40] 22 U.S.C. 300. Sec. 9 was added by Public Law 79-33 (59 Stat. 53); further amended by sec. 2(e) of Public Law 88-94 (77 Stat. 122); further amended and restated by sec. 3 of Public Law 82-399 (80 Stat. 882).

[41] Subsec. (c) was added by sec. 401 (h)(2) of Public Law 99-399, 100 Stat. 863.

[42] 22 U.S.C. 301. Sec. 10 was added by sec. 4 of Public Law 89-636 (80 Stat. 882).

[43] 22 U.S.C. 302. Sec. 136 of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98-164, 97 Stat. 1029) added sec. 11.

(b)(1) Generally applicable laws and regulations pertaining to licensing and other qualifications to do business in the country in which the contract is to be performed shall not be deemed a limitation of access for purposes of this section.

(2) For purposes of determining competitive status, bids qualifying under subsection (a)(1) shall be reduced by ten percent.

(3) A determination of adequacy of competition for purposes of subsection (a) shall be made after advance publication by the Secretary of State of the proposed project, and receipt from not less than two prospective responsible bidders of intent to submit a bid or proposal. If competition is not determined to be adequate, contracts may be awarded without regard to subsection (a) and this subsection.

(4) Bidder qualification under subsection (a) shall be determined on the basis of nationality of ownership, the burden of which shall be on the prospective bidder. Qualification under subsection (a)(1) shall require evidence of (A) performance of similar construction work in the United States, and (B) either (i) ownership in excess of fifty percent by United States citizens or permanent residents, or (ii) incorporation in the United States for more than three years and employment of United States citizens or permanent residents in more than half of the corporation's permanent full-time professional and managerial positions in the United States.

(5) Qualification under this section shall be established on the basis of determinations at the time bids are requested.

(c) Contracts for construction, alteration, or repair in the United States for or on behalf of any foreign mission (as defined in section 202(a)(4) of title II of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4302(a)(4)) may, pursuant to the authority by bidders qualifying under subsection (a)(1) or (2) or by nationals of the country for which the contract is being performed who are granted the right of entry into the United States for that purpose.

(d) Determinations under this section shall be committed to the discretion of the Secretary of State.

(e) This section shall cease to be effective when the Secretary of State determines that there are internationally-agreed-upon rules in effect on bidding for construction contracts.

b. The Act of July 25, 1946

Public Law 79-547 [H.R. 6627], 60 Stat. 663, 22 U.S.C. 295b, approved July 25, 1946

AN ACT For the acquisition of buildings and grounds in foreign countries for the use of the Government of the United States of America.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purpose of further carrying into effect the provisions of the Foreign Service Buildings Act of May 7, 1926, as amended (22 U.S.C. 291-297), there is authorized to be appropriated in addition to the amount authorized by such Act, and the Act of May 25, 1938, an amount not to exceed $125,000,000, of which $110,000,000 shall be available exclusively for payments representing the value, in whole or in part, of property or credits of whatever nature acquired through lend-lease settlements, the disposal of surplus property abroad, or otherwise, and held abroad by the Government or owing the Government by any foreign government or by any person or organization residing or situated abroad, which property or credits may be used by the Department of State for sites, buildings, equipment, construction, and leaseholds; such payments to be made to the agency of the United States administering the property or credits and be treated by such agency as though made by the foreign government, person, or organization concerned. Sums appropriated pursuant to this Act shall be available for the purposes and subject to the conditions and limitations of the above Acts, except that there shall be no limitation on the amount to be appropriated in any one year and that expenditures for furnishings shall not be subject to the provisions of section 3709 of the Revised Statutes.

c. The Act of May 25, 1938 [1]

Public Law 75-543 [H.R. 5633], 52 Stat. 441, 22 U.S.C. 295a, approved May 25, 1938

AN ACT To provide additional funds for buildings for the use of the diplomatic and consular establishments of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purpose of further carrying into effect the provisions of the Foreign Service Buildings Act, 1926, as amended, there is authorized to be appropriated, in addition to the amount authorized by such Act, an amount not to exceed $5,000,000, of which not more than $1,000,000 shall be appropriated for any one year. Sums appropriated pursuant to this Act shall be available for the purposes and be subject to the conditions and limitations of such Act, as amended: *Provided,* That in the expenditure of appropriations for the construction of diplomatic and consular establishments, the Secretary of State shall, unless in his discretion the interests of the Government will not permit, purchase or contract for only articles of manufacture of the United States, notwithstanding that such articles, when delivered abroad, may cost more if such excess of cost be not unreasonable.

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[1] See Act of July 25, 1946.

6. International Center Act

Public Law 90-553 [H.R. 16175], 82 Stat. 958, approved October 8, 1968; as amended by Public Law 93-40 [S. 1235], 87 Stat. 74, approved June 12, 1973; Public Law 97-186 [S.1611] 99 Stat. 101, approved May 25, 1982; and by Public Law 99-93 [H.R. 2068], 99 Stat. 405, approved August 16, 1985

AN ACT To authorize the transfer, conveyance, lease, and improvement of, and construction on, certain property in the District of Columbia, for use as a headquarters site for the Organization of American States, as sites for governments of foreign countries, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to facilitate the conduct of foreign relations by the Department of State in Washington, District of Columbia, through the creation of a more propitious atmosphere for the establishment of foreign government and international organization offices and other facilities, the Secretary of State is authorized to develop in coordination with the Administrator of General Services for, or to sell, exchange, or lease; to foreign governments and international organizations property owned by the United States in the Northwest sections of the District of Columbia bounded by Connecticut Avenue, Yuma Street, 36th Street, Reno Road, and Tilden Street, except that portion of lot 802 in square 1964, the jurisdiction over which was transferred to the District of Columbia for use as an educational facility, upon such terms and conditions as the Secretary may prescribe. Every lease, contract of sale, deed, and other document of transfers shall provide (a) that the foreign government shall devote the property transferred to use for legation purposes, or (b) that the international organization shall devote the property transferred to its official uses.

Sec. 2.[1] Upon the request of any foreign government or international organization and with funds provided by such government or organization in advance, the Secretary of State in conjunction with the Administrator of General Services, is authorized to design, construct, and equip a headquarters building or related facilities on property conveyed described in the first section of this Act.

Sec. 3. The Act of June 20, 1938 (D.C. Code, secs. 5-413 to 5-428), shall not apply to buildings constructed on property transferred or conveyed pursuant to this Act including section 3 of this Act as in effect January 1, 1980. Plans showing the location, height, bulk, number of stories, and size of, and the provisions for open space and offstreet parking in and around, such buildings shall be approved by the National Capital Planning Commission, and plans showing the height and appearance, color, and texture of the materials of exterior construction of such buildings shall be approved by the Commission of Fine Arts prior to the construction thereof.

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[1] Sec. 124(1) of Public Law 99-93 (99 Stat. 405), amended sec. 2 by:

(a) by striking out "Administrator of General Services" and inserting in lieu thereof "Secretary of State, in conjunction with the Administrator of General Services,"; and

(b) by striking out "conveyed pursuant to" and inserting in lieu thereof "described in".

Sec. 4.[2] (a) The demolition or removal of existing structures, site preparation, and the construction, reconstruction, relocation, and rebuilding of (1) public streets and sidewalks, (2) public sewers and their appurtenances, (3) water mains, fire hydrants, and other parts of the public water supply and distribution system, (4) the fire alarm system, (5) other utilities, (6) facilities for security maintenance, and (7) related improvements necessary to accomplish the purposes of this Act, which are within or contiguous to the area described in section 1 of this Act and which are occasioned in carrying out the provisions of this Act, shall be provided by the Secretary of State, in coordination with the Administrator of General Services and the government of the District of Columbia.

(b) The Secretary of State shall periodically advise the Committees on Foreign Affairs and Public Works and Transportation of the House of Representatives and the Committee on Foreign Relations of the Senate on construction of facilities for security or maintenance under this section.

Sec. 5. There is hereby authorized to be appropriated, without fiscal year limitation, not to exceed $2,200,000 to carry out the purposes of section 5 of this Act: *Provided,* That such sums as may be appropriated hereunder shall be reimbursed to the Treasury from [3] proceeds of the sale, exchange, or lease of property to foreign governments and international organizations as provided for in this first section of this Act. All proceeds received from such sales, exchanges, or leases shall, notwithstanding the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484) or any other law, be paid into a special account with the Treasurer of the United States, such account to be administered by the Secretary of State for the purposes set out in section 5 of this Act. All sums remaining in such special account after completion of the projects authorized in section 5 shall be covered into the Treasury as miscellaneous receipts.[4] The Secretary may retain therefrom a reserve for maintenance and security of those public improvements authorized by this Act which have not been conveyed to a government or international organization under the first section of this Act, and for surveys and plans related to development of additional areas within the Nation's Capital for chancery and diplomatic purposes. Amounts in the reserve will be available only to the extent and in such amounts as provided in advance in appropriations Acts.

Sec. 6. This Act may be cited as the International Center Act.

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[2] Sec. 124(2) of Public Law 99-93 (99 Stat. 405), added the text of sec. 2(a)(6) and the text of sec. 2(b).

[3] The text from the beginning of the section to the footnote was added by Public Law 93-40 (87 Stat. 74).

[4] The text from the footnote to the end of the act was added by Public Law 97-186 (96 Stat. 101).

7. Foreign Gifts and Decorations

a. Foreign Gifts and Decorations Act of 1966, as amended

Public Law 89-673 [S. 2463], 80 Stat. 592, approved October 15, 1966; as amended by Public Law 90-83 [H.R. 5876], 81 Stat. 195, approved September 11, 1967

AN ACT To grant the consent of the Congress to the acceptance of certain gifts and decorations from foreign governments, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Foreign Gifts and Decorations Act of 1966".

Sec. 2.[1] In this Act—

(1) The term "person" includes every person who occupies an office or a position in the Government of the United States, its territories and possessions, the Canal Zone government, and the government of the District of Columbia, or is a member of the Armed Forces of the United States, or a member of the family and household of any such person.

(2) The term "foreign government" includes every foreign government and every official, agent, or representative thereof.

(3) The term "gift" includes any present or thing, other than a decoration, tendered by or received from a foreign government.

(4) The term "decoration" includes any order, device, medal, badge, insignia, or emblem tendered by or received from a foreign government.

Sec. 3.[2] * * * [Repealed—1967]

Sec. 4.[2] * * * [Repealed—1967]

Sec. 5.[2] * * * [Repealed—1967]

Sec. 6.[3] Any gift or decoration on deposit with the Department of State on the date of enactment of this Act shall, when approved by the Secretary of State and the appropriate department, agency, office, or other entity, be released to the donee or his legal representative. Such donee may, if authorized, be entitled to wear any decoration so approved. A gift or decoration not approved for release, because of any special or unusual circumstances involved, shall be deemed a gift to the United States and shall be deposited by the donee in accordance with the rules and regulations issued pursuant to this Act.

Sec. 7.[2] * * * [Repealed—1967]

Sec. 8.[2] * * * [Repealed—1967]

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[1] 22 U.S.C. 2621.

[2] Secs. 3, 4, 5, 7, and 8 were repealed by sec. 10(b) of Public Law 90-83 (81 Stat. 224). They were superseded by sec. 1(45)(c) of Public Law 90-83 (81 Stat. 200) as amended and restated by sec. 515 of the Foreign Relations Authorization Act, Fiscal Year 1978 (Public Law 95-105, 91 Stat. 862).

[3] 22 U.S.C. 2625.

b. Receipt and Disposition of Foreign Gifts and Decorations

Partial text of Public Law 95-105 [H.R. 6689], 91 Stat. 844 at 862, approved August 17, 1977 [1]

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FOREIGN GIFTS AND DECORATIONS

Sec. 515. (a)(1) Section 7342 of title 5, United States Code, is amended to read as follows:

"§ 7342. Receipt and disposition of foreign gifts and decorations

"(a) For the purpose of this section—

"(1) 'employee' means—

"(A) an employee as defined by section 2105 of this title and an officer or employee of the United States Postal Service or of the Postal Rate Commission;

"(B) an expert or consultant who is under contract under section 3109 of this title with the United States or any agency, department, or establishment thereof, including, in the case of an organization performing services under such section, any individual involved in the performance of such services;

"(C) an individual employed by, or occupying an office or position in, the government of a territory or possession of the United States or the government of the District of Columbia;

"(D) a member of a uniformed service;

"(E) the President and the Vice President;

"(F) a Member of Congress as defined by section 2106 of this title (except the Vice President) and any Delegate to the Congress; and

"(G) the spouse of an individual described in subparagraphs (A) through (F) (unless such individual and his or her spouse are separated) or a dependent (within the meaning of section 152 of the Internal Revenue Code of 1954) of such an individual, other than a spouse or dependent who is an employee under subparagraphs (A) through (F);

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[1] The previous comprehensive amendment to sec. 7342 of title 5, U.S.C., was contained in Public Law 90-83 [H.R. 5876], 81 Stat. 195, approved Sept. 11, 1967. Sec. 7342 of title 5, U.S.C., was further amended by sec. 712 of the Foreign Relations Authorization Act, Fiscal Year 1979 (Public Law 95-426, 92 Stat. 994). Sec. 712(d) of such Act further stated: "(d) In the event that the space and facilities available to the Secretary of the Senate for carrying out his responsibilities in storing and safeguarding property in his custody under section 7342 of title 5, United States Code, are insufficient for such purpose, he may, with the approval of the Committee on Rules and Administration of the Senate, lease such space and facilities as may be necessary for such purpose. Rental payments under any such lease and expenses incurred in connection therewith shall be paid from the contingent fund of the Senate upon vouchers approved by the Secretary of the Senate."

"(2) 'foreign government' means—

"(A) any unit of foreign governmental authority, including any foreign national, State, local, and municipal government;

"(B) any international or multinational organization whose membership is composed of any unit of foreign government described in subparagraph (A); and

"(C) any agent or representative of any such unit or such organization, while acting as such;

"(3) 'gift' means a tangible or intangible present (other than a decoration) tendered by, or received from, a foreign government;

"(4) 'decoration' means an order, device, medal, badge, insignia, emblem, or award tendered by, or received from, a foreign government;

"(5) 'minimal value' means a retail value in the United States at the time of acceptance of $100 or less, except that—

"(A) on January 1, 1981, and at 3 year intervals thereafter, 'minimal value' shall be redefined in regulations prescribed by the Administrator of General Services, in consultation with the Secretary of State, to reflect changes in the consumer price index for the immediately preceding 3-year period; and

"(B) regulations of an employing agency may define 'minimal value' for its employees to be less than the value established under this paragraph; and

"(6) 'employing agency' means—

"(A) the Committee on Standards of Official Conduct of the House of Representatives, for Members and employees of the House of Representatives, except that those responsibilities specified in subsections (c)(2)(A), (e)(1), and (g)(2)(B) shall be carried out by the Clerk of the House;

"(B) the Select Committee on Ethics of the Senate, for Senators and employees of the Senate, except that those responsibilities (other than responsibilities involving approval of the employing agency) specified in subsections (c)(2), (d) and (g)(2)(B) shall be carried out by the Secretary of the Senate;[2]

"(C) the Administrative Office of the United States Courts, for judges and judicial branch employees; and

"(D) the department, agency, office, or other entity in which an employee is employed, for other legislative branch employees and for all executive branch employees.

"(b) An employee may not—

"(1) request or otherwise encourage the tender of a gift or decoration; or

"(2) accept a gift or decoration, other than in accordance with the provisions of subsections (c) and (d).

"(c)(1) The Congress consents to—

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[2] The words to this point beginning with "except that * * *" were added by sec. 712(a)(2) of Public Law 95-426 (92 Stat. 994).

"(A) the accepting and retaining by an employee of a gift of minimal value tendered and received as a souvenir or mark of courtesy; and

"(B) the accepting by an employee of a gift of more than minimal value when such gift is in the nature of an educational scholarship or medical treatment or when it appears that to refuse the gift would likely cause offense or embarrassment or otherwise adversely affect the foreign relations of the United States, except that—

"(i) a tangible gift of more than minimal value is deemed to have been accepted on behalf of the United States and, upon acceptance, shall become the property of the United States; and

"(ii) an employee may accept gifts of travel or expenses for travel taking place entirely outside the United States (such as transportation, food, and lodging) of more than minimal value if such acceptance is appropriate, consistent with the interests of the United States, and permitted by the employing agency and any regulations which may be prescribed by employing agency.

"(2) Within 60 days after accepting a tangible gift of more than minimal value (other than a gift described in paragraph (1)(B)(ii)), an employee shall—

"(A) deposit the gift for disposal with his or her employing agency; or

"(B) subject to the approval of the employing agency, deposit the gift with that agency for official use.

Within 30 days after terminating the official use of a gift under subparagraph (B), the employing agency shall forward the gift to the Administrator of General Services in accordance with subsection (e)(1) or provide for its disposal in accordance with subsection (e)(2).[3]

"(3) When an employee deposits a gift of more than minimal value for disposal or for official use pursuant to paragraph (2), or within 30 days after accepting travel or travel expenses as provided in paragraph (1)(B)(ii) unless such travel or travel expenses are accepted in accordance with specific instructions of his or her employing agency, the employee shall file a statement with his or her employing agency or its delegate containing the information prescribed in subsection (f) for that gift.

"(d) The Congress consents to the accepting, retaining, and wearing by an employee of a decoration tendered in recognition of active field service in time of combat operations or awarded for other outstanding or unusually meritorious performance, subject to the approval of the employing agency of such employee. Without this approval, the decoration is deemed to have been accepted on behalf of the United States, shall become the property of the United States, and shall be deposited by the employee, within sixty days of acceptance, with the employing agency for official use, for forwarding to the Administrator of General Services for disposal in accordance with subsection (e)(1), or for disposal in accordance with subsection (e)(2).[3]

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[3] The words to this point beginning with "(1) * * *" were added by sec. 712(b)(1) of Public Law 95–426 (92 Stat. 994).

"(e)(1)[4] Except as provided in paragraph (2), gifts and decorations that have been deposited with an employing agency for disposal shall be (A) returned to the donor, or (B) forwarded to the Administrator of General Services for transfer, donation, or other disposal in accordance with the provisions of the Federal Property and Administrative Services Act of 1949. However, no gift or decoration that has been deposited for disposal may be sold without the approval of the Secretary of State, upon a determination that the sale will not adversely affect the foreign relations of the United States. Gifts and decorations may be sold by negotiated sale.

"(2)[4] Gifts and decorations received by a Senator or an employee of the Senate that are deposited with the Secretary of the Senate for disposal, or are deposited for an official use which has terminated, shall be disposed of by the Commission on Arts and Antiquities of the United States Senate. Any such gift or decoration may be returned by the Commission to the donor or may be transferred or donated by the Commission, subject to such terms and conditions as it may prescribe, (A) to an agency or instrumentality of (i) the United States, (ii) a State, territory, or possession of the United States, or a political subdivision of the foregoing, or (iii) the District of Columbia, or (B) to an organization described in section 501(c)(3) of the Internal Revenue Code of 1954 which is exempt from taxation under section 501(a) of such Code. Any such gift or decoration not disposed of as provided in the preceding sentence shall be forwarded to the Administrator of General Services for disposal in accordance with paragraph (1). If the Administrator does not dispose of such gift or decoration within one year, he shall, at the request of the Commission, return it to the Commission and the Commission may dispose of such gift or decoration in such manner as it considers proper, except that such gift or decoration may be sold only with the approval of the Secretary of State upon a determination that the sale will not adversely affect the foreign relations of the United States.

"(f)(1) Not later than January 31 of each year, each employing agency or its delegate shall compile a listing of all statements filed during the preceding year by the employees of that agency pursuant to subsection (c)(3) and shall transmit such listing to the Secretary of State who shall publish a comprehensive listing of all such statements in the Federal Register.

"(2) Such listings shall include for each tangible gift reported—

"(A) the name and position of the employee;

"(B) a brief description of the gift and the circumstances justifying acceptance;

"(C) the identity, if known, of the foreign government and the name and position of the individual who presented the gift;

"(D) the date of acceptance of the gift;

"(E) the estimated value in the United States of the gift at the time of acceptance; and

"(F) disposition or current location of the gift.

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[4] Sec. 712(c) of Public Law 95–426 (92 Stat. 994) added the paragraph designation "(1)" and added a new par. (2).

"(3) Such listings shall include for each gift of travel or travel expenses—

"(A) the name and position of the employee;

"(B) a brief description of the gift and the circumstances justifying acceptance; and

"(C) the identity, if known, of the foreign government and the name and position of the individual who presented the gift.

"(4) In transmitting such listings for the Central Intelligence Agency, the Director of Central Intelligence may delete the information described in subparagraphs (A) and (C) of paragraphs (2) and (3) if the Director certifies in writing to the Secretary of State that the publication of such information could adversely affect United States intelligence sources.

"(g)(1) Each employing agency shall prescribe such regulations as may be necessary to carry out the purpose of this section. For all employing agencies in the executive branch, such regulations shall be prescribed pursuant to guidance provided by the Secretary of State. These regulations shall be implemented by each employing agency for its employees.

"(2) Each employing agency shall—

"(A) report to the Attorney General cases in which there is reason to believe that an employee has violated this section;

"(B) establish a procedure for obtaining an appraisal, when necessary, of the value of gifts; and

"(C) take any other actions necessary to carry out the purpose of this section.

"(h) The Attorney General may bring a civil action in any district court of the United States against any employee who knowingly solicits or accepts a gift from a foreign government not consented to by this section or who fails to deposit or report such gift as required by this section. The court in which such action is brought may assess a penalty against such employee in any amount not to exceed the retail value of the gift improperly solicited or received plus $5,000.

"(i) The President shall direct all Chiefs of a United States Diplomatic Mission to inform their host governments that it is a general policy of the United States Government to prohibit United States Government employees from receiving gifts or decorations of more than minimal value.

"(j) Nothing in this section shall be construed to derogate any regulation prescribed by any employing agency which provides for more stringent limitations on the receipt of gifts and decorations by its employees.

"(k) The provisions of this section do not apply to grants and other forms of assistance to which section 108A of the Mutual Educational and Cultural Exchange Act of 1961 applies.".

(2) The amendment made by paragraph (1) of this subsection shall take effect on January 1, 1978.

(b)(1) After September 30, 1977, no appropriated funds, other than funds from the "Emergencies in the Diplomatic and Consular Service" account of the Department of State, may be used to purchase any tangible gift of more than minimal value (as defined in section 7342(a)(5) of title 5, United States Code) for any foreign individual unless such gift has been approved by the Congress.

(2) Beginning October 1, 1977, the Secretary of State shall annually transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report containing details on (1) any gifts of more than minimal value purchased with appropriated funds which were given to a foreign individual during the previous fiscal year, and (2) any other gifts of more than minimal value given by the United States Government to a foreign individual which were not obtained using appropriated funds.

c. Senate Resolution 314, 90th Congress (Report No. 90-1427), approved July 19, 1968

RESOLUTION

Resolved, That the Committee on Rules and Administration is hereby authorized to grant approval, for the purposes of section 7342 of title 5, United States Code, and regulations prescribed thereunder, of the acceptance, retention, and wearing by a Member, officer, or employee of the Senate of a decoration tendered by a foreign government in recognition of active field service in time of combat operations or awarded for other outstanding or unusually meritorious service.

8. Migration and Refugee Assistance

a. Migration and Refugee Assistance Act of 1962, as amended

Public Law 87-510 [H.R. 8291], 76 Stat. 121, 22 U.S.C. 2601, approved June 28, 1962, as amended by Public Law 88-634 [H.R. 11812], 78 Stat. 1021, approved October 7, 1964; Public Law 94-141 [S. 1517], 89 Stat. 756, approved November 29, 1975; Public Law 96-212 [S. 643], 94 Stat. 102, approved March 17, 1980; Public Law 96-465 [Foreign Service Act of 1980, H.R. 6790], 94 Stat. 2071 at 2162, approved October 17, 1980; and by Public Law 99-93 [H.R. 2068], 99 Stat 405, approved August 16, 1985

AN ACT To enable the United States to participate in the assistance rendered to certain migrants and refugees.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Migration and Refugee Assistance Act of 1962."

Sec. 2.[1] (a) The President is hereby authorized to continue membership for the United States in the Intergovernmental Committee for European Migration in accordance with its constitution approved in Venice, Italy, on October 19, 1953. For the purpose of assisting in the movement of refugees and migrants and to enhance the economic progress of the developing countries by providing for a coordinated supply of selected manpower, there are hereby authorized to be appropriated such amounts as may be necessary from time to time for the payment by the United States of its contributions to the Committee and all necessary salaries and expenses incidental to United States participation in the Committee.

(b)[2] There are hereby authorized to be appropriated such amounts as may be necessary from time to time—

(1) for contributions to the activities of the United Nations High Commissioner for Refugees for assistance to refugees under his mandate or persons on behalf of whom he is exercising his good offices, and for contributions to the Intergovernmental Committee for European Migration, the International Committee of the Red Cross, and to other relevant international organizations; and

(2)[3] for assistance to or on behalf of refugees who are outside the United States designated by the President (by class, group, or designation of their respective countries of origin or areas of residence) when the President determines that such assistance will contribute to the foreign policy interests of the United States.

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[1] 22 U.S.C. 2601.

[2] Sec. 312(b)(1) of Public Law 96-212 (94 Stat. 116) amended subsec. (b) by striking pars. (1) through (6) and adding new pars. (1) and (2).

[3] Presidential Determination No. 88-2 of October 30, 1987, 53 F.R. 399, designated refugees in "Indochina and other countries in East Asia, including such persons who may be authorized pursuant to Section 101(a)(42) of the Immigration and Nationality Act to be considered for admission to the United States as refugees while still within their countries of nationality or habitual residence" as persons qualifying for assistance under this subsection.

(c)[4] (1)[5] Whenever the President determines it to be important to the national interest he is authorized to furnish on such terms and conditions as he may determine assistance under this Act for the purpose of meeting unexpected urgent refugee and migration needs.[6]

(2)[4] There is established a United States Emergency Refugee and Migration Assistance Fund to carry out the purposes of this section. There is authorized to be appropriated to the President from time to time such amounts as may be necessary for the fund to carry out the purposes of this section, except that no amount of funds may be appropriated which, when added to amounts previously appropriated but not yet obligated, would cause such amounts to exceed $50,000,000.[7] Amounts appropriated hereunder shall remain available until expended.

(3) Whenever the President requests appropriations pursuant to this authorization he shall justify such requests to the Committee on Foreign Relations of the Senate and to the Speaker of the House of Representatives, as well as to the Committees on Appropriations.

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[4] Subsec. (c) was amended and restated by sec. 501(a) of Public Law 94-141.

The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100-461, 102 Stat. 2268-15) provided the following for the United State Emergency Refugee and Migration Assistance Fund:

"For necessary expenses to carry out the provisions of section 2(c) of the Migration and Refugee Assistance Act of 1962, as amended (22 U.S.C. 260(c)), $50,000,000, to remain available until expended: *Provided,* That of the funds appropriated under this heading not less than $23,000,000 shall be made available only for Afghan refugees to be administered by the cross-border humanitarian assistance program: *Provided further,* That the funds made available under this heading are appropriated notwithstanding the provisions contained in section 2(c)(2) of the Migration and Refugee Assistance Act of 1962 which would limit the amount of funds which could be appropriated for this purpose: *Provided further,* That funds appropriated under this heading shall be available for obligation and expenditure for Afghan refugees only after funds appropriated or otherwise earmarked for assistance for the Afghan people under section 537 of this Act and under the heading 'Migration and Refugee Assistance' have been obligated."

For other appropriations for migration and refugee assistance fiscal year 1989, as provided by Public Law 100-461, see vol. I, page 529.

[5] Presidential Determination No. 88-20 of July 26, 1988, 53 F.R. 33801, provided the following pursuant to sec. 2(c)(1):

" * * * in order to meet unexpected urgent refugee and migration needs in Africa, I hereby determine that it is important to the national interest that $10.5 million be made available from he United States Emergency Refugee and Migration Assistance Fund (Emergency Fund) for assistance to persons in Africa, including, as appropriate, contributions to the International Committee of the Red Cross (ICRC), the United Nations High Commissioner for Refugees (UNHCR), and other international organizations and voluntary agencies providing assistance to such persons. Within the total, approximately $5,0 million will be contributed to the UNHCR/League of Red Cross Societies for urgent African appeals and approximately $5.5 million will be contributed to the ICRC for Africa."

Presidential Determination No. 88-24 of September 13, 1988, 53 F.R. 39583, provided the following:

" * * * in order to meet unexpected urgent refugee and migration needs of Soviet and Eastern European refugees, I hereby determine that it is important to the national interest that $6 million be made available from the United States Emergency Refugee and Migration Assistance Fund for the admission of refugees from the Soviet Union and Eastern Europe."

[6] Sec. 4 of Public Law 96-110 (93 Stat. 844) required the following report regarding costs of refugee assistance programs:

"SEC. 4. Not later than 60 days after the date of enactment of this Act, the President shall report to the Congress.

"(1) the estimated total costs to the United States Government, during fiscal year 1980 and fiscal year 1981, of domestic and foreign assistance to refugees under all programs of the United States Government, and

"(2) the estimated costs to State and local governments during such fiscal year for assistance to refugees which is attributable to such programs."

[7] Sec. 312(b)(2) of Public Law 96-212 (94 Stat. 117) substituted $50,000,000 in lieu of $25,000,000.

(d) The President shall keep the appropriate committees of Congress currently informed of the use of funds and the exercise of functions authorized in this Act.

(e) Unexpended balances of funds made available under authority of the Mutual Security Act of 1954, as amended, and of the Foreign Assistance Act of 1961, as amended and allocated or transferred for the purposes of sections 405(a), 405(c), 405(d) and 451(c) of the Mutual Security Act of 1954, as amended, are hereby authorized to be continued available for the purposes of this section and may be consolidated with appropriations authorized by this section.[8]

(f)[9] The President may furnish assistance and make contributions under this Act notwithstanding any provision of law which restricts assistance to foreign countries.

Sec. 3.[10] (a) In carrying out the purpose of this Act, the President is authorized—

(1) to make loans, advances, and grants to, make and perform agreements and contracts with, or enter into other transactions with, any individual, corporation, or other body of persons, government or government agency, whether within or without the United States, and international and intergovernmental organizations;

(2) to accept and use money, funds, property, and services of any kind made available by gift, devise, bequest, grant, or otherwise for such purposes.

(b) Whenever the President determines it to be in furtherance of the purposes of this Act, the functions authorized under this Act may be performed without regard to such provisions of law (other than the Renegotiation Act of 1951 (65 Stat. 7), as amended)[11] regulating the making, performance, amendment, or modification of contracts and the expenditure of funds of the United States Government as the President may specify.

Sec. 4.[12] (a)(1) The President is authorized to designate the head of any department or agency of the United States Government, or any official thereof who is required to be appointed by the President by and with the advice and consent of the Senate, to perform any functions conferred upon the President by this Act. If the President shall so specify, any individual so designated under this subsection is authorized to redelegate to any of his subordinates any functions authorized to be performed by him under this subsection, except the function of exercising the waiver authority specified in section 3(b) of this Act.

(2) Section 104(b) of the Immigration and Nationality Act (8 U.S.C. 1104(b)), is amended by inserting after the first sentence the following: "He shall be appointed by the President by and with the advice and consent of the Senate."

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[8] The final sentence in sec. 2(e) of this Act, repealed by the Foreign Assistance and Related Agencies Appropriation Act, 1965 (Public Law 88-634, 78 Stat. 1021), read: "Funds appropriated for the purposes of this section shall remain available until expended."

[9] Subsec. (f) was added by sec. 111 of Public Law 99-93 (99 Stat. 405).

[10] 22 U.S.C. 2602.

[11] 50 U.S.C. App. 1211 note.

[12] 22 U.S.C. 2603.

(b)[13] The President may allocate or transfer to any agency of the United States Government any part of any funds available for carrying out the purposes of this Act. Such funds shall be available for obligation and expenditure for the purposes for which authorized in accordance with authority granted in this Act or under authority governing the activities of the agencies of the United States Government to which such funds are allocated or transferred. Funds allocated or transferred pursuant to this subsection to any such agency may be established in separate appropriation accounts on the books of the Treasury.

Sec. 5.[14] (a) Funds made available for the purposes of this Act shall be available for—

(1) compensation, allowances, and travel of personnel, including members of the Foreign Service[15] whose services are utilized primarily for the purpose of this Act, and without regard to the provisions of any other law, for printing and binding, and for expenditures outside the United States for the procurement of supplies and services and for other administrative and operating purposes (other than compensation of personnel) without regard to such laws and regulations governing the obligation and expenditure of Government funds as may be necessary to accomplish the purposes of this Act;

(2) employment or assignment of members of the Foreign Service serving under limited appointments[16] for the duration of operations under this Act;

(3) exchange of funds without regard to section 3651 of the Revised Statutes (31 U.S.C. 543), and loss by exchanges;

(4) expenses authorized by the Foreign Service Act of 1980,[17] not otherwise provided for;

(5) expenses authorized by the Act of August 1, 1956 (70 Stat. 890–892), as amended;[18] and

(6)[19] contracting for personal services abroad, and individuals employed by contract to perform such services shall not be considered to be employees of the United States for purposes of any law administered by the Office of Personnel Management, except that the Secretary of State may determine the applicability to such individuals of section 2(f) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2669(f)) and of any other law administered by the Secretary concerning the employment of such individuals abroad; and

(7) all other expenses determined by the President to be necessary to carry out the purposes of this Act.

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[13] 22 U.S.C. 2604.

[14] 22 U.S.C. 2605.

[15] The reference to members of the Foreign Service was substituted in lieu of a reference to Foreign Service personnel by sec. 2206(a)(6) of the Foreign Service Act of 1980 (Public Law 96–465, 94 Stat. 2162).

[16] The reference to members of the Foreign Service serving under limited appointments was substituted in lieu of a reference to Foreign Service Reserve officers by sec. 2206(a)(6) of the Foreign Service Act of 1980 (Public Law 96–465, 94 Stat. 2162).

[17] The reference to the Foreign Service Act of 1980 was substituted in lieu of a reference to the Foreign Service Act of 1946 by sec. 2206(a)(6) of Public Law 96–465 (94 Stat. 2162).

[18] 22 U.S.C. 2662 et seq.

[19] Paragraph 6 of sec. 5(a) was added by sec. 112 of Public Law 99–93 (99 Stat. 405). Authority provided by this amendment applied only to funds appropriated after August 16, 1985.

(b) Except as may be expressly provided to the contrary in this Act, all determinations, authorizations, regulations, orders, contracts, agreements and other actions issued, undertaken, or entered into under authority of any provision of law repealed by this Act shall continue in full force and effect until modified, revoked, or superseded under the authority of this Act.

Sec. 6. Subsections (a), (c) and (d) of section 405 of the Mutual Security Act of 1954, as amended, subsection (c) of section 451 of the said Act, and the last sentence of section 2(a) of the Act of July 14, 1960 (74 Stat. 504), are hereby repealed.

Sec. 7. Until the enactment of legislation appropriating funds for activities under this Act, such activities may be conducted with funds made available under section 451(a) of the Foreign Assistance Act of 1961, as amended.

Sec. 8.[20] **AUDITS OF U.S. FUNDS RECEIVED BY THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES.**

(a) PROGRAM AUDITS.—Funds may not be made available to the United Nations High Commissioner for Refugees under this or any other Act unless by June 1, 1986, the High Commissioner provides for—

(1) annual program audits by an independent consultant, as selected by the Executive Committee of the United Nations High Commissioner for Refugees, to determine the use of such funds by private and voluntary organizations; and

(2) such audits to be made available through the Executive Committee to the Department of State and for inspection by the Comptroller General of the United States.

(b) INSPECTION AND REPORT BY COMPTROLLER GENERAL.—The Comptroller General of the United States shall inspect each such audit and submit a report of that inspection to the Congress.

(c) FIRST PROGRAM AUDIT.—The first program audit pursuant to subsection (a)(1) shall begin not later than June 1, 1986.

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[20] 22 U.S.C. 2606. Sec. 8 was added by sec. 113 of Public Law 99-93 (99 Stat. 405).

b. Dire Emergency Supplemental Appropriations Act, 1988

Partial text of Public Law 100–393 [H.R. 5026], 102 Stat. 969, approved August 14, 1988

AN ACT Making dire emergency supplemental appropriations for the fiscal year ending September 30, 1988, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to provide dire emergency supplemental appropriations for the fiscal year ending September 30, 1988, and for other purposes, namely:

* * * * * * *

FUNDS APPROPRIATED TO THE PRESIDENT

DEPARTMENT OF STATE

UNITED STATES EMERGENCY MIGRATION AND REFUGEE ASSISTANCE FUND

For necessary expenses to carry out the provisions of section 2(c) of the Migration and Refugee Assistance Act of 1962, as amended, $24,000,0000 to remain available until expended: *Provided,* That not less than $6,000,000 shall be made available for Soviet and other Eastern European Refugees.

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c. Administration of the Migration and Refugee Assistance Act of 1962

Executive Order 11077, January 22, 1963, 28 F.R. 629; as amended by Executive Order 11922, June 16, 1976, 41 F.R. 24573

By virtue of the authority vested in me by the Migration and Refugee Assistance Act of 1962 (76 Stat. 121–124; hereinafter referred to as the Act), and as President of the United States, it is ordered as follows:

Section 1. Department of State. (a) The Secretary of State is hereby designated to perform the following:

(1) The functions provided for in sections 2(a) and 2(b)(1) of the Act.

(2) The functions provided for in section 2(b)(2) of the Act, exclusive of so much thereof as is assigned or reserved by the provisions of section 2(1) of this order.

(3) In connection with functions under the Act assigned to the Secretary of State, the functions provided for in sections 3(a), 4(b), and 5(a) of the Act.

(b) The Secretary of State shall from time to time furnish the President documents appropriate for the discharge by the President of his responsibilities under section 2(d) of the Act. To the extent that they relate to functions performed by the Secretary of Health, Education, and Welfare under the provisions of this order, such documents shall be prepared in collaboration with the latter Secretary.

(c) With due regard for other relevant considerations (including the interests of the Department of Health, Education, and Welfare, and of any other executive agencies which may be concerned), the Secretary of State shall assume the leadership and provide the guidance for assuring that programs authorized under the Act best serve the foreign policy objectives of the United States.

(d) [1] Funds appropriated or otherwise made available to the President for the United States Emergency Refugee and Migration Assistance Fund established by Section 2(c) of the Act (22 U.S.C. 2601) shall be deemed to be allocated without further action of the President to the Secretary of State, and the Secretary may allocate or transfer as appropriate, such funds to any agency, or part thereof, for obligation or expenditure consistent with the provisions of this order, the Act, and other applicable law: *Provided,* That such funds may not be transferred, obligated, or expended until the President shall have made the determinations provided for in Section 2(c)(1) of the Act, which determinations are reserved to the President, and the designations and determinations provided for in Section 2(b)(2) of the Act.

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[1] Subsec. (d) was added by Executive Order 11922, June 16, 1976.

Sec. 2. Department of Health, Education, and Welfare. (a) The Secretary of Health, Education, and Welfare is hereby designated to perform the following:

(1) The functions provided for in section 2(b)(2) of the Act to the extent that they are in respect of assistance to Cuban refugee students in the United States who are in need of loans to attend institutions of higher education, exclusive, however, of the designations and determinations provided for in that section, which designations and determinations are reserved to the President.

(2) The functions provided for in sections 2(b)(3) to 2(b)(6), inclusive, of the Act.

(3) In connection with functions under the Act assigned to the Secretary of Health, Education, and Welfare, the functions provided for in sections 3(a), 4(b), and 5(a)(6) of the Act and, except in respect of Foreign Service personnel, the functions provided for in section 5(a)(1) of the Act.

Sec. 3. Redelegation. (a) The Secretary of State and the Secretary of Health, Education, and Welfare may each redelegate any of his functions under this order to any of his subordinates.

Sec. 4. Waivers. (a) In accordance with Section 3(b) of the Act, it is hereby determined that it is in furtherance of the purposes of the Act that the functions authorized under the Act may be performed (by any department or agency of the Government authorized to perform those functions) without regard to the following-specified provisions of law:

(1) the Act of March 26, 1934, c. 90, 48 Stat. 500, as amended (15 U.S.C. 616a) (shipment of certain exports in United States vessels).

(2) Section 3648 of the Revised Statutes, as amended (31 U.S.C. 529) (advance of funds).

(3) Section 3709 of the Revised Statutes, as amended (41 U.S.C. 5) (competitive bids).

(4) Section 3710 of the Revised Statutes (41 U.S.C. 8) (opening of bids).

(5) Section 2 of the Act of March 3, 1933, c. 212, 47 Stat. 1520 (41 U.S.C. 10a) (Buy American Act).

(6) Section 3735 of the Revised Statutes (41 U.S.C. 13) (contracts limited to one year).

(7) Sections 302–305 of the Federal Property and Administrative Services Act of 1949 (June 30, 1949, c. 288, 63 Stat. 393 et seq.), as amended (41 U.S.C. 252–255) (competitive bids; negotiated contracts; advances).

(8) Section 901(a) of the Merchant Marine Act, 1936 (June 29, 1936, c. 858, 49 Stat. 2015, as amended; 46 U.S.C. 1241(a)) (official travel overseas of United States officers and employees, and transportation of their personal effects, on ships registered under the laws of the United States).

(b) It is directed (1) that all waivers of statutes and limitations of authority effected by the foregoing provisions of this section shall be utilized in a prudent manner and as sparingly as may be practical, and (2) that suitable steps shall be taken by the administrative agencies concerned to insure that result, including, as may be appropriate, the imposition of administrative limitations in lieu of waived statutory requirements and limitations of authority.

Sec. 5. Definition. As used in this order, the word "function" or "functions" includes any executive duty, obligation, power, authority, responsibility, right, privilege, discretion or activity.

Sec. 6. Saving provisions. Except to the extent that they may be inconsistent with law or with this order, all determinations, authorizations, regulations, orders, contracts, agreements and other actions issued, undertaken, or entered into with respect to any function affected by this order and not revoked, superseded, or otherwise made inapplicable before the date of this order, shall continue in force and effect until amended, modified, or terminated by appropriate authority.

Sec. 7. Effective date. The provisions of this order shall be effective as of July 1, 1962.

d. Refugee Act of 1980

Partial text of Public Law 96-212 [S. 643] 94 Stat. 102, approved March 17, 1980

AN ACT To amend the Immigration and Nationality Act to revise the procedures for the admission of refugees, to amend the Migration and Refugee Assistance Act of 1962 to establish a more uniform basis for the provision of assistance to refugees, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Refugee Act of 1980".

NOTE.—This Act primarily consists of amendments to the Immigration and Nationality Act (8 U.S.C. 1101). Only those portions directly relating to the Department of State are set out below.

TITLE I—PURPOSE

Sec. 101.[1] (a) The Congress declares that it is the historic policy of the United States to respond to the urgent needs of persons subject to persecution in their homelands, including, where appropriate, humanitarian assistance for their care and maintenance in asylum areas, efforts to promote opportunities for resettlement or voluntary repatriation, aid for necessary transportation and processing, admission to this country of refugees of special humanitarian concern to the United States, and transitional assistance to refugees in the United States. The Congress further declares that it is the policy of the United States to encourage all nations to provide assistance and resettlement opportunities to refugees to the fullest extent possible.

(b) The objectives of this Act are to provide a permanent and systematic procedure for the admission to this country of refugees of special humanitarian concern to the United States, and to provide comprehensive and uniform provisions for the effective resettlement and absorption of those refugees who are admitted.

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[1] 8 U.S.C. 1521 note.

TITLE III—UNITED STATES COORDINATOR FOR REFUGEE AFFAIRS AND ASSISTANCE FOR EFFECTIVE RESETTLEMENT OF REFUGEES IN THE UNITED STATES

PART A—UNITED STATES COORDINATOR FOR REFUGEE AFFAIRS

Sec. 301.[2] (a) The President shall appoint, by and with the advice and consent of the Senate, a United States Coordinator for Refugee Affairs (hereinafter in this part referred to as the "Coordinator"). The Coordinator shall have the rank of Ambassador at Large.

(b) The Coordinator shall be responsible to the President for—

(1) the development of overall United States refugee admission and resettlement policy;

(2) the coordination of all United States domestic and international refugee admission and resettlement programs in a manner that assures that policy objectives are met in a timely fashion;

(3) the design of an overall budget strategy to provide individual agencies with policy guidance on refugee matters in the preparation of their budget requests, and to provide the Office of Management and Budget with an overview of all refugee-related budget requests;

(4) the presentation to the Congress of the Administration's overall refugee policy and the relationship of individual agency refugee budgets to that overall policy;

(5) advising the President, Secretary of State, Attorney General, and the Secretary of Health and Human Services on the relationship of overall United States refugee policy to the admission of refugees to, and the resettlement of refugees in, the United States;

(6) under the direction of the Secretary of State, representation and negotiation on behalf of the United States with foreign governments and international organizations in discussions on refugee matters and, when appropriate, submitting refugee issues for inclusion in other international negotiations;

(7) development of an effective and responsive liaison between the Federal Government and voluntary organizations, Governors and mayors, and others involved in refugee relief and resettlement work to reflect overall United States Government policy;

(8) making recommendations to the President and to the Congress with respect to policies for, objectives of, and establishment of priorities for, Federal functions relating to refugee admission and resettlement in the United States; and

(9) reviewing the regulations, guidelines, requirements, criteria, and procedures of Federal departments and agencies applicable to the performance of functions relating to refugee admission and resettlement in the United States.

(c)(1) In the conduct of the Coordinator's duties, the Coordinator shall consult regularly with States, localities, and private nonprofit voluntary agencies concerning the sponsorship process and the intended distribution of refugees.

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[2] 8 U.S.C. 1525.

(2) The Secretary of Labor and the Secretary of Education shall provide the Coordinator with regular reports describing the efforts of their respective departments to increase refugee access to programs within their jurisdiction, and the Coordinator shall include information on such programs in reports submitted under section 413(a)(1) of the Immigration and Nationality Act.

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e. Refugee Education Assistance Act of 1980

Partial text of Public Law 96–422 [H.R. 7859], 94 Stat. 1799, approved October 10, 1980

AN ACT to provide general assistance educational agencies for the education of Cuban and Haitian refugee children, to provide special impact aid of such agencies for the education of Cuban and Haitian refugee children and Indochinese refugee children, and to provide assistance to State educational agencies for the education of Cuban and Haitian refugee adults.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Refugee Education Assistance Act of 1980".

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TITLE V—OTHER PROVISIONS RELATING TO CUBAN AND HAITIAN ENTRANTS

AUTHORITIES FOR OTHER PROGRAMS AND ACTIVITIES

Sec. 501.[1] (a)(1) The President shall exercise authorities with respect to Cuban and Haitian entrants which are identical to the authorities which are exercised under chapter 2 of title IV of the Immigration and Nationality Act. The authorizations provided in section 414 of that Act shall be available to carry out this section without regard to the dollar limitation contained in section 414(a)(2).

(2) Any reference in chapter III of title I of the Supplemental Appropriations and Rescission Act, 1980, to section 405(c)(2) of the International Security and Development Assistance Act of 1980 or to the International Security Act of 1980 shall be construed to be a reference to paragraph (1) of this subsection.

(b) In addition, the President may, by regulation, provide that benefits granted under any law of the United States (other than the Immigration and Nationality Act) with respect to individuals admitted to the United States under section 207(c) of the Immigration and Nationality Act shall be granted in the same manner and to the same extent with respect to Cuban and Haitian entrants.

(a)(1)(A) Any Federal agency may, under the direction of the president, provide assistance (in the form of materials, supplies, equipment, work, services, facilities, or otherwise) for the processing, care, maintenance, security, transportation, and initial reception and placement in the United States of Cuban and Haitian entrants. Such assistance shall be provided on such terms and conditions as the President may determine.

(B) Funds available to carry out this subsection shall be used to reimburse State and local governments for expenses which they incur for the purposes described in subparagraph (A). Such funds may be used to reimburse Federal agencies for assistance which they provide under subparagraph (A).

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[1] 8 U.S.C. 1522 note.

(2) The President may direct the head of any Federal agency to detail personnel of that agency, on either a reimbursable or nonreimbursable basis, for temporary duty with any Federal agency directed to provide supervision and management for purposes of this subsection.

(3) The furnishing of assistance or other exercise of functions under this subsection shall not be considered a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

(4) Funds to carry out this subsection may be available until expended.

(5) To facilitate the transfer of the functions described in paragraph (1) from the Federal Emergency Management Agency to other Federal agencies pursuant to this subsection, the purposes for which the funds appropriated to the President in the first paragraph under the heading "FEDERAL EMERGENCY MANAGEMENT AGENCY" in chapter VII of title I of the Supplemental Appropriations and Rescission Act, 1980, are available may be construed to include use in carrying out this subsection to the extent that those funds are allocated for use for any of the purposes described in paragraph (1) of this subsection.

(d) The authorities provided in this section are applicable to assistance and services provided with respect to Cuban or Haitian entrants at any time after their arrival in the United States, including periods prior to the enactment of this section.

(e) As used in this section, the term "Cuban and Haitian entrant" means—

(1) any individual granted parole status as a Cuban-Haitian Entrant (Status Pending) or granted any other special status subsequently established under the immigration laws for nationals of Cuba or Haiti, regardless of the status of the individual at the time assistance or services are provided; and

(2) any other national of Cuba or Haiti—

(A) who—

(i) was paroled into the United States and has not acquired any other status under the Immigration and Nationality Act;

(ii) is the subject of exclusion or deportation proceedings under the Immigration and Nationality Act; or

(iii) has an application for asylum pending with the Immigration and Naturalization Service; and

(B) with respect to whom a final, nonappealable, and legally enforceable order of deportation or exclusion has not been entered.

f. Immigration Reform and Control Act of 1986

Partial text of Public Law 99-603 [S. 1200], 100 Stat. 5649, approved November 5, 1986; as amended by Public Law 100-525 [S. 2479], 102 Stat. 2609 at 2614, approved October 24, 1988

An Act to amend the Immigration and Nationality Act to revise and reform the immigration laws, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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TITLE VI—COMMISSION FOR THE STUDY OF INTERNATIONAL MIGRATION AND COOPERATIVE ECONOMIC DEVELOPMENT

SEC. 601.[1] COMMISSION FOR THE STUDY OF INTERNATIONAL MIGRATION AND COOPERATIVE ECONOMIC DEVELOPMENT.

(a) Establishment and Composition of Commission.—(1)There is established a Commission for the Study of International Migration and Cooperative Economic Development (in this section referred to as the "Commission"), to be composed of twelve members—

(A) three members to be appointed by the Speaker of the House of Representatives;

(B) three members to be appointed by the Minority Leader of the House of Representatives;

(C) three members to be appointed by the Majority Leader of the Senate; and

(D) three members to be appointed by the Minority Leader of the Senate.

(2) Members shall be appointed for the life of the Commission. Appointments to the Commission shall be made within 90 days after the date of the enactment of this Act. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(3) A majority of the members of the Commission shall elect a Chairman.

(b) Duty of Commission.—The Commission, in consultation with the governments of Mexico and other sending countries in the Western Hemisphere, shall examine the conditions in Mexico and such other sending countries which contribute to unauthorized migration to the United States and mutually beneficial, reciprocal trade and investment programs to alleviate such conditions. For purposes of this section, the term "sending country" means a foreign country a substantial number of whose nationals migrate to, or remain in, the United States without authorization.

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[1] 8 U.S.C. 1101 note.

(c) REPORT TO THE PRESIDENT AND CONGRESS.—Not later than three years after the appointment of the members of the Commission, the Commission shall prepare and transmit to the President and to the Congress a report describing the results of the Commission's examination and recommending steps to provide mutually beneficial reciprocal trade and investment programs to alleviate conditions leading to unauthorized migration to the United States.

(d) COMPENSATION OF MEMBERS, MEETINGS, STAFF, AUTHORITY OF COMMISSION, AND AUTHORIZATION OF APPROPRIATIONS.—(1) The provisions of subsections (d), (e)(3), (f), (g), and (h) of section 304 shall apply to the Commission in the same manner as they apply to the Commission established under section 304.[2] Not more than 1 percent of the amounts appropriated for the Commission may be used, at the sole discretion of the Chairman, for official entertainment.[3]

(2) Seven members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(e) TERMINATION DATE.—The Commission shall terminate on the date on which a report is required to be transmitted by subsection (c), except that the Commission may continue to function for not more than thirty days thereafter for the purpose of concluding its activities.

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[2] Sec. 304 established a Commission on Agricultural Workers.

[3] Sec. 2(r) of Public Law 100–525 (102 Stat. 2614) added this last sentence.

g. Indochinese Refugee Resettlement and Protection Act of 1987

Partial text of Public Law 100-202 [Sec. 101(a) of the Continuing Appropriations for 1988, H.J. Res. 395], 101 Stat. 1329-40, approved December 22, 1987

JOINT RESOLUTION Making further continuing appropriations for the fiscal year 1988, and for other purposes.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

* * * * * * *

The following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1988, and for other purposes, namely:

* * * * * * *

SEC. 101. (a) Such amounts as may be necessary for programs, projects or activities provided for in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1988 at a rate of operations and to the extent and in the manner provided for, the provisions of such Act to be effective as if it had been enacted into law as the regular appropriations Act, as follows:

AN ACT Making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1988, and for other purposes.

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TITLE VIII—INDOCHINESE REFUGEE RESETTLEMENT AND PROTECTION ACT OF 1987 [1]

SEC. 801. This title may be cited as the "Indochinese Refugee Resettlement and Protection Act of 1987".

SEC. 802. (a) FINDINGS.—It is the sense of the Congress that—

(1) the continued occupation of Cambodia by Vietnam and the oppressive conditions within Vietnam, Cambodia, and Laos have led to a steady flight of persons from those countries, and the likelihood for the safe repatriation of the hundreds of thousands of refugees in the region's camps is negligible for the foreseeable future;

(2) the United States has already played a major role in responding to the Indochinese refugee problem by accepting ap-

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[1] Legislation nearly identical to secs. 801 through 803 of this Act was enacted as sec. 904 of the Foreign Relations Authorization Act, 1988 and 1989 (Public Law 100-204, 101 Stat. 1402). For text, see page 54.

proximately 850,000 Indochinese refugees into the United States since 1975 and has a continued interest in persons who have fled and continue to flee the countries of Cambodia, Laos, and Vietnam;

(3) Hong Kong, Indonesia, Malaysia, Singapore, the Philippines, and Thailand have been the front line countries bearing tremendous burdens caused by the flight of these persons;

(4) all members of the international community bear a share of the responsibility for the deterioration in the refugee first asylum situation in Southeast Asia because of slow and limited procedures, failure to implement effective policies for the region's "long-stayer" populations, failure to monitor adequately refugee protection and screening programs, particularly along the Thai-Cambodian and Thai-Laotian borders, and the instability of the Orderly Departure Program (ODP) from Vietnam which has served as the only safe, legal means of departure from Vietnam for refugees, including Amerasians and long-held "reeducation camp" prisoners;

(5) the Government of Thailand should be complimented for allowing the United States to process ration card holders in Khao I Dang and potentially qualified immigrants in Site 2 and in Khao I Dang;

(6) given the serious protection problem in Southeast Asian first asylum countries and the need to preserve first asylum in the region, the United States should continue its commitment to an ongoing, generous admission and protection program for Indochinese refugees, including urgently needed educational programs for refugees along the Thai-Cambodian and Thai-Laotian borders, until the underlying causes of refugee flight are addressed and resolved;

(7) the executive branch should seek adequate funding levels to meet United States policy objectives to ensure the well-being of Indochinese refugees in first asylum, and to process 29,500 Indochinese refugees within the overall refugee admissions level of 68,000 as determined by the President; and

(8) the Government of Thailand should be complimented for the progress that has been made in implementing an effective antipiracy program.

(b) RECOMMENDATIONS.—The Congress finds and recommends the following with respect to Indochinese refugees:

(1) The Secretary of State should urge the Government of Thailand to allow full access by highland refugees to the Lao Screening Program, regardless of the method of their arrival or the circumstances of their apprehension, and should intensify its efforts to persuade the Government of Laos to accept the safe return of persons rejected under the Lao Screening Program.

(2) Refugee protection and monitoring activities should be expanded along the Thai-Laotian border in an effort to identify and report on incidents of refugees forcibly repatriated into Laos.

(3) The Secretary of State should urge the Government of Thailand to address immediately the problems of protection associated with the Khmer along the Thai-Cambodian border.

The Government of Thailand, along with appropriate international relief agencies, should develop and implement a plan to provide for greater security and protection for the Khmer at the Thai border.

(4) The international community should increase its efforts to assure that Indochinese refugee camps are protected, that refugees have access to a free market at Site 2, and that international observers and relief personnel are present on a 24-hour-a-day basis at Site 2 and any other camp where it is deemed necessary.

(5) The Secretary of State should make every effort to identify each person at Site 2 who may qualify for admission to the United States as an immigrant and for humanitarian parole.

(6) The United Nations High Commissioner for Refugees should be pressed to upgrade staff presence and the level of advocacy to revive the international commitment with regard to the problems facing Indochinese refugees in the region, and to pursue voluntary repatriation possibilities in cases where monitoring is available and the safety of the refugees is assured.

(c) ALLOCATIONS OF REFUGEE ADMISSIONS.—Given the existing connection between ongoing resettlement and the preservation of first asylum, the United States and the United Nations High Commissioner for Refugees should redouble efforts to assure a stable and secure environment for refugees while dialog is pursued on other long-range solutions, it is the sense of the Senate that—

(1) within the worldwide refugee admissions ceiling determined by the President, the President should allocate—

(A) at least 28,000 admissions from East Asia, first-asylum camps,

(B) at least 8,500 admissions for the Orderly Departure Program, for each of the fiscal years 1988, 1989, and 1990; and

(2) within the allocation made by the President for the Orderly Departure Program from Vietnam pursuant to paragraph (1)(B), admissions allocated in a fiscal year under priorities II and III of the program (as defined in the Department of State Bureau for Refugee Programs worldwide processing priorities) and the number of admissions allocated for Amerasians and their immediate family members under priority I, should be generous.

(d) INTERNATIONAL SOLUTIONS TO REFUGEE PROBLEMS.—It is the sense of the Congress that—

(1) renewed international efforts must be taken to address the problem of Indochinese refugees who have lived in camps for 3 years or longer; and

(2) the Secretary of State should urge the United Nations High Commissioner for Refugees to organize immediately an international conference to address the problems of Indochinese refugees.

SEC. 803. REPORTING REQUIREMENT.—The President shall submit a report to Congress within 180 days after the date of the enactment of this Act on the respective roles of the Immigration and Naturalization Service and the Department of State in the refugee program with recommendations for improving the effectiveness and efficiency of the program.

SEC. 804.[2] FINDINGS AND DECLARATIONS.—The Congress makes the following findings and declarations:

(a) Thousands of children in the Socialist Republic of Vietnam were fathered by American civilians and military personnel.

(b) It has been reported that many of these Amerasian children are ineligible for ration cards and often beg in the streets, peddle black market wares, or prostitute themselves.

(c) The mothers of Amerasian children in Vietnam are not eligible for government jobs or employment in government enterprises and many are estranged from their families and are destitute.

(d) Amerasian children and their families have undisputed ties to the United States and are of particular humanitarian concern to the United States.

(e) The United States has a longstanding and very strong commitment to receive the Amerasian children in Vietnam, if they desire to come to the United States.

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[2] Sec. 804 was also enacted as sec. 905(a), paragraphs (1) through (5), of the Foreign Relations Authorization Act, 1988 and 1989 (Public Law 100–204, 101 Stat. 1404).

h. Cuban Political Prisoners and Immigrants

Partial text of Public Law 100-202 [Sec. 101(a) of the Continuing Appropriations for 1988, H.J. Res. 395], 101 Stat. 1329-39, approved December 22, 1987

JOINT RESOLUTION Making further continuing appropriations for the fiscal year 1988, and for other purposes.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

* * * * * * *

The following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1988, and for other purposes, namely:

* * * * * * *

SEC. 101. (a) Such amounts as may be necessary for programs, projects or activities provided for in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1988 at a rate of operations and to the extent and in the manner provided for, the provisions of such Act to be effective as if it had been enacted into law as the regular appropriations Act, as follows:

AN ACT Making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1988, and for other purposes.

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TITLE VII—CUBAN POLITICAL PRISONERS AND IMMIGRANTS

SEC. 701.[1] This title may be cited as "Cuban Political Prisoners and Immigrants".

SEC. 702.[1] (a) PROCESSING OF CERTAIN CUBAN POLITICAL PRISONERS AS REFUGEES.—In light of the announcement of the Government of Cuba on November 20, 1987, that it would reimplement immediately the agreement of December 14, 1984, establishing normal migration procedures between the United States and Cuba, on and after the date of enactment of this Act, consular officer of the Department of State and appropriate officers of the Immigration and Naturalization Service shall, in accordance with the procedures applicable to such cases in other countries, process any application for admission to the United States as a refugee from any Cuban national who was imprisoned for political reasons by the Government of Cuba on or after January 1, 1959, without regard to the duration of such imprisonment, except as may be necessary to reassure the orderly process of available applicants.

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[1] 8 U.S.C. 1201 note.

(b) PROCESSING OF IMMIGRANT VISA APPLICATIONS OF CUBAN NATIONALS IN THIRD COUNTRIES.—Notwithstanding section 212(f) and section 243(g) of the Immigration and Nationality Act, on and after the date of the enactment of this Act, consular officers of the Department of State shall process immigrant visa applications by nationals of Cuba located in third countries on the same basis as immigrant visa applications by nationals of other countries.

(c) DEFINITIONS.—For purposes of this section:

(1) The term "process" means the acceptance and review of applications and the preparation of necessary documents and the making of appropriate determinations with respect to such applications.

(2) The term "refugee" has the meaning given such term in section 101(a)(42) of the Immigration and Nationality Act.

* * * * * * *

i. Cuban and Haitian Entrants

Executive Order 12341, January 21, 1982, 47 F.R. 3341

By the authority vested in me as President of the United States of America by Section 501 of the Refugee Education Assistance Act of 1980 (8 U.S.C. 1522 note) and Section 301 of Title 3 of the United States Code, and to reassign some responsibilities for providing assistance to Cuban and Haitian entrants, it is hereby ordered as follows:

Section 1. The functions vested in the President by Sections 501 (a) and (b) of the Refugee Education Assistance Act of 1980, hereinafter referred to as the Act (8 U.S.C. 1522 note), are delegated to the Secretary of Health and Human Services.

Sec. 2. The Attorney General shall ensure that actions are taken to provide such assistance to Cuban and Haitian entrants as provided for by Section 501(c) of the Act. To that end, the functions vested in the President by Section 501(c) of the Act are delegated to the Attorney General.

Sec. 3. All actions taken pursuant to Executive Order No. 12251 shall continue in effect until superseded by actions under this Order.

Sec. 4. Executive Order No. 12251 of November 15, 1980, is revoked.

j. Consultations on the Admission of Refugees

Executive Order 12208, April 15, 1980, 45 F.R. 25789, as amended by Executive Order 12608, September 9, 1987, 52 F.R. 34620

By the authority vested in me as President by the Constitution and laws of the United States of America, including the Refugee Act of 1980 (P.L. 96-212; 8 U.S.C. 1101 note), the Immigration and Nationality Act, as amended (8 U.S.C. 1101 *et seq.*), and Section 301 of Title 3 of the United States Code, it is hereby ordered as follows:

1-101. Exclusive of the functions otherwise delegated, or reserved to the President, by this Order, there are hereby delegated the following functions:

(a) To the Secretary of State and the Attorney General, or either of them, the functions of initiating and carrying out appropriate consultations with members of the Committees on the Judiciary of the Senate and of the House of Representatives for purposes of Sections 101(a)(42)(B) and 207 (a), (b), (d), and (e) of the Immigration and Nationality Act, as amended (8 U.S.C. 1101(a)(42)(B) and 1157(a), (b), (d), and (e)).

(b) To the United States Coordinator for Refugee Affairs, the functions of reporting and carrying on periodic discussions under section 207(d)(1) of the Immigration and Nationality Act, as amended.

1-102. (a) The functions vested in the United States Coordinator for Refugee Affairs by Section 1-101(b) of this Order shall be carried out in consultation with the Secretary of State, the Attorney General, and the Secretary of Health and Human Services.[1]

(b) The United States Coordinator shall notify the Committees on the Judiciary of the Senate and of the House of Representatives that the Secretary of State and the Attorney General, or either of them, wish to consult for the purposes of Section 207 (a), (b), or (d) of the Immigration and Nationality Act, as amended. The United States Coordinator for Refugee Affairs shall, in accord with his responsibilities under Section 301 of the Refugee Act of 1980 (8 U.S.C. 1525), prepare for those Committees the information required by 207(e) of the Immigration and Nationality Act, as amended.

1-103. There are reserved to the President the following functions under the Immigration and Nationality Act, as amended:

(a) To specify special circumstances for purposes of qualifying persons as refugees under Section 101(a)(42)(B).

(b) To make determinations under Sections 207(a)(1), 207(a)(2), 207(a)(3) and 207(b).

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[1] The words to this point beginning with "Secretary of Health * * *" were substituted in lieu of "Secretary of Health, Education, and Welfare" by Executive Order 12608, September 14, 1986, 52 F.R. 34620.

(c) To fix the number of refugees to be admitted under Section 207(b).

1-104. Except to the extent inconsistent with this Order, all actions previously taken pursuant to any function delegated or assigned by this Order shall be deemed to have been taken and authorized by this Order.

k. Executive Order 12324, September 29, 1981, 46 F.R. 48109

INTERDICTION OF ILLEGAL ALIENS

By the authority vested in me as President by the Constitution and statutes of the United States of America, including Sections 212(f) and 215(a)(1) of the Immigration and Nationality Act, as amended (8 U.S.C. 1182(f) and 1185(a)(1)), in view of the continuing problem of migrants coming to the United States, by sea, without necessary entry documents, and in order to carry out the suspension and interdiction of such entry which have concurrently been proclaimed, it is hereby ordered as follows:

Section 1. The Secretary of State shall undertake to enter into, on behalf of the United States, cooperative arrangements with appropriate foreign governments for the purposes of preventing illegal migration to the United States by sea.

Sec. 2. (a) The Secretary of the Department in which the Coast Guard is operating shall issue appropriate instructions to the Coast Guard in order to enforce the suspension of the entry of undocumented aliens and the interdiction of any defined vessel carrying such aliens.

(b) Those instructions shall apply to any of the following defined vessels:

(1) Vessels of the United States, meaning any vessel documented under the laws of the United States, or numbered as provided by the Federal Boat Safety Act of 1971, as amended (46 U.S.C. 1451 *et seq.*), or owned in whole or in part by the United States, a citizen of the United States, or a corporation incorporated under the laws of the United States or any State, Territory, District, Commonwealth, or possession thereof, unless the vessel has been granted nationality by a foreign nation in accord with Article 5 of the Convention on the High Seas of 1958 (U.S. TIAS 5200; 13 UST 2312).

(2) Vessels without nationality or vessels assimilated to vessels without nationality in accordance with paragraph (2) of Article 6 of the Convention on the High Seas of 1958 (U.S. TIAS 5200; 13 UST 2312).

(3) Vessels of foreign nations with whom we have arrangements authorizing the United States to stop and board such vessels.

(c) Those instructions to the Coast Guard shall include appropriate directives providing for the Coast Guard:

(1) To stop and board defined vessels, when there is reason to believe that such vessels are engaged in the irregular transportation of persons or violations of United States law or the law of a country with which the United States has an arrangement authorizing such action.

(2) To make inquiries of those on board, examine documents and take such actions as are necessary to establish the registry, condition and destination of the vessel and the status of those on board the vessel.

(3) To return the vessel and its passengers to the country from which it came, when there is reason to believe that an offense is being committed against the United States immigration laws, or appropriate laws of a foreign country with which we have an arrangement to assist; provided, however, that no person who is a refugee will be returned without his consent.

(d) These actions, pursuant to this Section, are authorized to be undertaken only outside the territorial waters of the United States.

Sec. 3. The Attorney General shall, in consultation with the Secretary of State and the Secretary of the Department in which the Coast Guard is operating, take whatever steps are necessary to ensure the fair enforcement of our laws relating to immigration (including effective implementation of this Executive Order) and the strict observance of our international obligations concerning those who genuinely flee persecution in their homeland.

9. Recognition by the United States of Foreign Governments

Senate Resolution 205, 91st Congress, Report No. 91-338, agreed to September 25, 1969

RESOLUTION To set forth as an expression of the sense of the Senate a basic principle regarding the recognition by the United States of foreign governments.

Whereas official statements over the last fifty years concerning the policy of the United States in granting or withholding recognition of a foreign government have given rise to uncertainty as to whether United States recognition of a foreign government implies approval of such a government; and

Whereas recognition by the United States of foreign governments has been interpreted by many Americans and by many foreigners as implying United States approval of those foreign governments; and

Whereas such uncertainty adversely affects the interests of the United States in its relations with foreign nations: Now, therefore, be it

Resolved, That it is the sense of the Senate that when the United States recognizes a foreign government and exchanges diplomatic representatives with it, this does not of itself imply that the United States approves of the form, ideology, or policy of that foreign government.

10. The Asia Foundation Act

Partial text of Public Law 98-164 [H.R. 2915], 97 Stat. 1017 at 1038, approved November 22, 1983; by Public Law 99-93 [H.R. 2068], 99 Stat. 405, approved August 16, 1985; and by Public Law 100-204 [H.R. 1777], 101 Stat. 1331, approved December 1987

AN ACT To authorize appropriations for fiscal years 1984 and 1985 for the Department of State, the United States Information Agency, the Board for International Broadcasting, the Inter-American Foundation, and the Asia Foundation, to establish the National Endowment for Democracy, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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TITLE IV—THE ASIA FOUNDATION

SHORT TITLE

Sec. 401. This title may be cited as "The Asia Foundation Act".

FINDINGS

Sec. 402.[1] The Congress finds that—

(1) The Asia Foundation, a private nonprofit corporation incorporated in 1954 in the State of California, has long been active in promoting Asian-American friendship and cooperation and in lending encouragement and assistance to Asians in their own efforts to develop more open, more just, and more democratic societies;

(2) The Asia Foundation's commitment to strengthening indigenous Asian institutions which further stable national development, constructive social change, equitable economic growth, and cooperative international relationships is fully consistent with and supportive of long-term United States interests in Asia;

(3) The Asia Foundation, as a private organization, is able to conduct programs in response to Asian initiatives that would be difficult or impossible for an official United States instrumentality, and it is in a position in Asia to respond quickly and flexibly to meet new opportunities;

(4) in recognition of the valuable contributions of The Asia Foundation to long-range United States foreign policy interests, the United States Government has, through a variety of agencies, provided financial support for The Asia Foundation; and

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[1] 22 U.S.C. 4401.

(5) it is in the interest of the United States, and the further strengthening of Asian-American friendship and cooperation, to establish a more permanent mechanism for United States Government financial support for the ongoing activities of The Asia Foundation, while preserving the independent character of the Foundation.

GRANTS TO THE ASIA FOUNDATION

Sec. 403.[2] (a) The Secretary of State shall make an annual grant to The Asia Foundation with the funds made available under section 404. Such grants shall be in general support of the Foundation's programs and operations. The terms and conditions of grants pursuant to this section shall be set forth in a grant agreement between the Secretary of State and The Asia Foundation.

(b) If funds made available to The Asia Foundation pursuant to this title or pursuant to any other provision of law are, with the permission of the head of the Federal agency making the funds available, invested by the Foundation or any of its subgrantees pending disbursement, the resulting interest is not required to be deposited in the United States Treasury if that interest is used for the purposes for which the funds were made available.

FUNDING

Sec. 404.[3] There is authorized to be appropriated to the Secretary of State $13,700,000 for the fiscal year 1988 and $15,000,000 for the fiscal year 1989 for grants to The Asia Foundation pursuant to this title.[4]

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[2] 22 U.S.C. 4402.

[3] 22 U.S.C. 4403. Sec. 601 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100–204, 101 Stat. 1331) provided the current text of this section. The authorization for each of fiscal years 1986 and 1987 was $10,500,000.

[4] The Department of State Appropriations Act, 1989 (Public Law 100–459, 102 Stat. 2206) provided $13,700,000 for The Asia Foundation, as authorized by sec. 601 of Public Law 100–204.

11. Soviet Embassy in the United States

a. Reassessment of Soviet Electronic Espionage Capability from Mt. Alto Embassy Site—National Defense Authorization Act, Fiscal Year 1989

Partial text of Public Law 100-456 [National Defense Authorization Act, Fiscal Year 1989, H.R. 4481], 102 Stat. 1019, approved December 4, 1987

AN ACT To authorize appropriations for fiscal year 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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TITLE XII—GENERAL PROVISIONS

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PART D—MISCELLANEOUS

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SEC. 1232. REASSESSMENT OF SOVIET ELECTRONIC ESPIONAGE CAPABILITY FROM MOUNT ALTO EMBASSY SITE

(a) FINDING.—The Congress finds that the report submitted by the Secretary of Defense pursuant to section 1122 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180)—

(1) contains insufficient detail (even in the classified portion) for a review and assessment of the present and potential capabilities of the Government of the Soviet Union to intercept United States communications involving diplomatic, military, and intelligence matters from facilities on Mount Alto in the District of Columbia, as required by subsection (a) of that section; and

(2) does not contain a determination of the Secretary of Defense as to whether or not the present and proposed occupation of facilities on Mount Alto by the Soviet Union is consistent with the national security of the United States, as required by subsection (b) of that section.

(b) SUBMISSION OF NEW REPORT.—Not later than 60 days after the date of the enactment of this Act, the President shall submit a report to Congress which meets the requirements of section 1122 of the National Defense Authorization Act for Fiscal Years 1988 and 1989.

b. United States-Soviet Embassy Agreement; Prohibition on Use of Mt. Alto—Foreign Relations Authorization Act, Fiscal Years 1988 and 1989

Partial text of Public Law 100-204 [Foreign Relations Authorization Act, Fiscal Years 1988 and 1989, H.R. 1777], 101 Stat. 1331 at 1351, approved December 22, 1987

AN ACT To authorize appropriations for fiscal years 1988 and 1989 for the Department of State, the United States Information Agency, the Voice of America, the Board for International Broadcasting, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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TITLE I—THE DEPARTMENT OF STATE

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PART D—DIPLOMATIC RECIPROCITY AND SECURITY

SEC. 151.[1] UNITED STATES-SOVIET EMBASSY AGREEMENT; PROHIBITION ON USE OF MT. ALTO SITE.

(a) FINDINGS.—The Congress finds that—

(1) the Government of the Union of Soviet Socialist Republics has intentionally and substantially violated international agreements with the United States concerning the establishment and operation of the new United States Embassy complex in Moscow by significantly delaying progress and by constructing the premises of that Embassy so as to compromise the security of United States operations, thus rendering the premises unusable for the primary purpose intended under those agreements;

(2) the Soviet Government's actions constitute a material violation of international law and a substantial default in performance under the contract for construction of the new United States Embassy complex, and the United States is entitled to claim appropriate compensation;

(3) due to actions of the Government of the Union of Soviet Socialist Republics, United States Government personnel cannot pursue their official duties in confidence, as the national security and diplomatic relations of the United States requires, within the new United States Embassy being constructed in Moscow;

(4) the Government of the Union of Soviet Socialist Republics has similarly taken steps to impair the full and proper use of

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[1] Sec. 151 was waived during fiscal years 1988 and 1989 by sec. 305 of the Department of State Appropriation Act, 1988 (sec. 101(a), title III, of the Continuing Appropriations for 1988, Public Law 100-202).

the present United States Embassy in Moscow, to the detriment of the national security of the United States and its ability to conduct diplomatic relations;

(5) as a result of the substantial violations by the Soviet Union of these international agreements with the United States and other Soviet violations of international law, the United States is entitled to terminate, in whole or in part, those agreements;

(6) termination of such agreements may include withdrawal of rights and privileges otherwise granted to the Soviet Union concerning the establishment of a new Soviet Embassy complex in Washington, District of Columbia;

(7) the location of the new Soviet Embassy on Mount Alto creates serious concerns with respect to electronic surveillance and potential damage to the national security of the United States; and

(8) to protect the national security of the United States, therefore, the United States should exercise its right to terminate the Embassy agreements in view of the substantial and intentional Soviet breaches thereof, unless the threat to the national security posed by adherence to those agreements can be overcome.

(b) WITHDRAWAL FROM EMBASSY AGREEMENT.—The United States shall withdraw from the Agreement between the Government of the United States and the Government of the Union of Soviet Socialist Republics on the Reciprocal Allocation for Use Free of Charge of Plots of Land in Moscow and Washington (signed at Moscow, May 16, 1969) and related agreements, notes, and understandings unless the President makes the determinations and waiver under subsection (c).

(c) WAIVER.—

(1) PRESIDENTIAL DETERMINATIONS REQUIRED.—The President may waive subsection (b) if he determines that—

(A) it is vital to the national security of the United States that the United States not withdraw from the agreement (and related agreements, notes, and understandings) referred to in subsection (b);

(B) steps have been or will be taken that will ensure that the new chancery building to be occupied by the United States Embassy in Moscow can be safely and securely used for its intended purposes; and

(C) steps have been or will be taken to eliminate, no later than 2 years after the date of enactment of this Act, the damage to the national security of the United States due to electronic surveillance from Soviet facilities on Mount Alto.

(2) WHEN DETERMINATIONS MAY BE MADE.—The President may not make the determination and waiver permitted by paragraph (1) before the end of the 6-month period beginning on the date of enactment of this Act.

(3) REPORT TO CONGRESS.—The waiver permitted by paragraph (1) shall not be effective until 30 days after the determinations and waiver are reported to the Congress. Any such report shall include—

(A) a detailed justification for each of the determinations;

(B) an assessment of the impact on national security of the removal of the Soviet Embassy from Mt. Alto; and

(C) specify the steps that have been or will be taken to achieve the requirements of paragraphs (1) (B) and (C).

(4) NONDELEGATABILITY.—The President may not delegate the responsibility for making the determination and waiver permitted by paragraph (1).

(d) NOTIFICATION OF UNAVAILABILITY OF MOUNT ALTO.—If the President does not waive subsection (b), the Secretary of State shall notify the Government of the Union of Soviet Socialist Republics that the Mount Alto site will cease to be available to that Government for any purpose as of the date which is 1 year and 10 days after the earliest date on which the President could make the waiver under subsection (c).

(e) PROHIBITION ON FUTURE USE OF MOUNT ALTO SITE BY FOREIGN MISSIONS.—If subsection (b) takes effect, the Mount Alto site may not be made available for use thereafter by a foreign mission for any purpose.

c. Assessment of Soviet Electronic Espionage Capability from Mt. Alto Embassy Site—National Defense Authorization Act for Fiscal Years 1988 and 1989

Partial text of Public Law 100-180 [National Defense Authorization Act for Fiscal Years 1988 and 1989, H.R. 1748], 101 Stat. 1019, approved December 4, 1987

AN ACT To authorize appropriations for fiscal years 1988 and 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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TITLE XI—DEPARTMENT OF DEFENSE MANAGEMENT

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PART C—SECURITY AND COUNTERINTELLIGENCE MATTERS

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SEC. 1122. ASSESSMENT OF SOVIET ELECTRONIC ESPIONAGE CAPABILITY FROM MOUNT ALTO EMBASSY SITE

(a) REVIEW AND ASSESSMENT.—The Secretary of Defense shall review and assess the present and potential capabilities of the Government of the Soviet Union to intercept United States communications involving diplomatic, military, and intelligence matters from facilities on Mount Alto in the District of Columbia. The Secretary shall submit to Congress a report on such review and assessment not later than 90 days after the date of the enactment of this Act.

(b) DETERMINATION OF CONSISTENCY WITH NATIONAL SECURITY.—The report required by subsection (a) shall include a determination by the Secretary of Defense as to whether or not the present and proposed occupation of facilities on Mount Alto by the Government of the Soviet Union is consistent with the national security of the United States.

(c) CLASSIFICATION OF REPORT.—The report required by subsection (a) shall be submitted in both a classified and unclassified form, except that the determination required by subsection (b) shall be submitted in an unclassified form.

(d) LIMITATION ON DELEGATION.—The Secretary of Defense may not delegate the duty to make the determination required by subsection (b).

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d. Assessment of Soviet Electronic Espionage Capability from Mt. Alto Site—Intelligence Authorization Act

Partial text of Public Law 100-178 [Intelligence Authorization Act, Fiscal Year 1988, H.R. 2112], 101 Stat. 1009, approved December 2, 1987

An Act To authorize appropriations for fiscal year 1988 for intelligence and intelligence-related activities of the United States Government, for the Intelligence Community Staff, for the Central Intelligence Agency and Disability System, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Intelligence Authorization Act, Fiscal Year 1988".

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TITLE IX—MOUNT ALTO EMBASSY SITE

ASSESSMENT OF SOVIET ELECTRONIC ESPIONAGE CAPABILITY

Sec. 901. (a) Review and Assessment.—The Secretary of Defense shall review and assess the present and potential capabilities of the Government of the Soviet Union to intercept United States communications involving diplomatic, military, and intelligence matters from facilities on Mount Alto in the District of Columbia. The Secretary shall submit to Congress a report on such review and assessment not later than ninety days after the date of the enactment of this Act.

(b) Determination of Consistency with National Security.—The report required by subsection (a) shall include a determination by the Secretary of Defense as to whether or not the present and proposed occupation of facilities on Mount Alto by the Government of the Soviet Union is consistent with the national security of the United States.

(c) Classification of Report.—The report required by subsection (a) shall be submitted in both classified and unclassified form, and the determination required by subsection (b) shall be submitted in an unclassified form.

(d) Limitation on Delegation.—The Secretary of Defense may not delegate the duty to make the determination required by subsection (b).

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1. United States Information and Educational Exchange Act and Related Materials

a. United States Information and Educational Exchange Act of 1948, as amended

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AN ACT To promote the better understanding of the United States among the peoples of the world and to strengthen cooperative international relations.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—SHORT TITLE, OBJECTIVES, AND DEFINITIONS

SHORT TITLE

Section 1. This Act may be cited as the "United States Information and Educational Exchange Act of 1948".

OBJECTIVES

Sec. 2.[1] The Congress hereby declares that the objectives of this Act are to enable the Government of the United States to promote

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[1] 22 U.S.C. 1431. In an effort to strengthen the objectives and purposes of this Act, sec. 501 of the Foreign Relations Authorization Act, Fiscal Year 1978 (91 Stat. 857), called on the President to submit a report to Congress by October 31, 1977, containing his recommendations for reorganizing the international information, education, cultural, and broadcasting activities of the United States. Pursuant to such request, the President submitted Reorganization Plan No. 2 of

Continued

a better understanding of the United States in other countries, and to increase mutual understanding between the people of the United States and the people of other countries. Among the means to be used in achieving these objectives are—

(1) an information service to disseminate abroad information about the United States, its people, and policies promulgated by the Congress, the President, the Secretary of State and other responsible officials of Government having to do with matters affecting foreign affairs;

(2) [Repealed by Public Law 87-256 (75 Stat. 527; 22 U.S.C. 1431(a)), approved September 21, 1961.]

UNITED NATIONS

Sec. 3.[2] In carrying out the objectives of this Act, information concerning the participation of the United States in the United Nations, its organizations and functions, shall be emphasized.

DEFINITIONS

Sec. 4.[3] When used in this Act, the term—

(1)[4] "Secretary" means the Secretary of State.

(2)[4] "Department" means the Department of State.

(3) "Government agency" means any executive department, board, bureau, commission, or other agency of the Federal Government, or independent establishment, or any corporation wholly owned (either directly or through one or more corporations) by the United States.

TITLE II—INTERCHANGE OF PERSONS, KNOWLEDGE AND SKILLS

PERSONS

Sec. 201.[5] * * * [Repealed—1961]

1977 on October 11, 1977, which would establish a new International Communication Agency by consolidating the functions of the State Department's Bureau of Educational and Cultural Affairs and USIA. Such reorganization plan became effective on April 1, 1978. For text of Reorganization Plan No. 2 of 1977, see vol. V, sec. E.

[2] 22 U.S.C. 1432.

[3] 22 U.S.C. 1433.

[4] Pursuant to sec. 7 of Reorganization Plan No. 2 of 1977, all functions vested in the President, Secretary of State, the Department of State, the Director of the United States Information Agency, and the United States Information Agency were transferred to the Director of the International Communication Agency. As now codified, these definitions refer to the "Director" and the "Agency" rather than the "Secretary" and the "Department".

Subsequently, sec. 303 of Public Law 97-241 (96 Stat. 291) redesignated the International Communication Agency as the United States Information Agency and stated that any reference to the International Communication Agency in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding, shall be deemed to be a reference to the United States Information Agency. Sec. 303 also stated that references to the Director or other official of the International Communication Agency shall be deemed to refer to the Director or other official of the United States Information Agency.

[5] Sec. 201, which authorized the interchange of persons on a reciprocal basis between the United States and other countries, was repealed by sec. 111 of Public Law 87-256 (75 Stat. 538).

BOOKS AND MATERIALS

Sec. 202.[6] The Secretary[7] is authorized to provide for interchanges between the United States and other countries of books and periodicals, including government publications, for the translation of such writings, and for the preparation, distribution, and interchange of other educational materials.

INSTITUTIONS

Sec. 203.[8] The Secretary[7] is authorized to provide for assistance to schools, libraries, and community centers abroad, founded or sponsored by citizens of the United States, and serving as demonstration centers for methods and practices employed in the United States. In assisting any such schools, however, the Secretary[7] shall exercise no control over their educational policies and shall in no case furnish assistance of any character which is not in keeping with the free democratic principles and the established foreign policy of the United States.[9]

TITLE III—ASSIGNMENT OF SPECIALISTS

PERSONS TO BE ASSIGNED

Sec. 301.[10] The Director of the United States Information Agency[11] is authorized, when the government of another country is desirous of obtaining the services of a person having special scientific or other technical or professional qualifications, from time to time to assign or authorize the assignment for service, to or in cooperation with such government, any person[12] in the employ or service of the Government of the United States who has such qualifications, with the approval of the Government agency in which such person is employed or serving. No person shall be assigned for service to or in cooperation with the government of any country unless (1) the Director[11] finds that such assignment is necessary in the national interest of the United States, or (2) such government agrees to reimburse the United States in an amount equal to the compensation, travel expenses, and allowances payable to such person during the period of such assignment in accordance with the provisions of section 302, or (3) such government shall have made an advance of funds, property, or services as provided in section 902. Nothing in this Act, however, shall authorize the assignment of such personnel for service relating to the organization, training, operation, development, or combat equipment of the armed forces of a foreign government.

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[6] 22 U.S.C. 1447.

[7] Pursuant to sec. 7(a)(1) of Reorganization Plan No. 2 of 1977, all functions vested in the President, Secretary of State, the Department of State, the Director of the United States Information Agency, and the United States Information Agency by this Act were transferred to the Director of the International Communication Agency. The codified version of this Act has been changed to reflect this transfer of authority.

Subsequently, sec. 303 of Public Law 97-241 (96 Stat. 291) redesignated the International Communication Agency as the United States Information Agency and stated that any reference to the International Communication Agency in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding, shall be deemed to be a reference to the United States Information Agency. Sec. 303 also stated that references to the Director or other official of the International Communication Agency shall be deemed to refer to the Director or other official of the United States Information Agency.

[8] 22 U.S.C. 1448. This section has been repealed insofar as it related to schools, by Public Law 87-256 (75 Stat. 527).

[9] This section was referred to in sec. 104(j) of Public Law 83-480 (68 Stat. 454), as amended by Public Law 84-962 (70 Stat. 988).

[10] 22 U.S.C. 1451.

[11] The reference to the Director of the United States Information Agency was inserted in lieu of a reference to the Secretary of State by sec. 304(a)(2) of Public Law 97-241 (96 Stat. 292). Previously, Reorganization Plan No. 2 of 1977, which established the International Communication Agency, stated that all functions vested in the Secretary of State by this Act were transferred to the Director of the International Communication Agency.

[12] The word "person" was inserted in lieu of the words "citizen of the United States" by sec. 304(a)(1) of Public Law 97-241 (96 Stat. 292).

STATUS AND ALLOWANCES

Sec. 302.[13] Any person in the employ or service of the Government of the United States,[14] while assigned for service to or in cooperation with another government under the authority of this Act, shall be considered, for the purpose of preserving his rights, allowances, and privileges as such, an officer or employee of the Government of the United States and of the Government agency from which assigned and he shall continue to receive compensation from that agency. He may also receive, under such regulations as the President may prescribe, representation allowances similar to those allowed under section 905 of the Foreign Service Act of 1980.[15] The authorization of such allowances and other benefits and the payment thereof out of any appropriations available therefor shall be considered as meeting all the requirements of section 5536 of title 5, United States Code.[16]

ACCEPTANCE OF OFFICE UNDER ANOTHER GOVERNMENT

Sec. 303.[17] Any person in the employ or service of the Government of the United States,[14] while assigned for service to or in cooperation with another government under authority of this Act may, at the discretion of his Government agency, with the concurrence of the Director of the United States Information Agency,[11] and without additional compensation therefor, accept an office under the government to which he is assigned, if the acceptance of such an office in the opinion of such agency is necessary to permit the effective performance of duties for which he is assigned, including the making or approving on behalf of such foreign government the disbursement of funds provided by such government or of receiving from such foreign government funds for deposit and disbursement on behalf of such government, in carrying out programs undertaken pursuant to this Act: *Provided, however,* That such acceptance of office shall in no case involve the taking of an oath of allegiance to another government.

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[13] 22 U.S.C. 1452.

[14] The words "person in the employ or service of the Government of the United States" were inserted in lieu of the words "citizen of the United States" by sec. 302(a)(1) of Public Law 97-241 (96 Stat. 292).

[15] The reference to sec. 905 of the Foreign Service Act of 1980 was inserted in lieu of a reference to sec. 901(3) of the Foreign Service Act of 1946 (60 Stat. 990) by sec. 304(a)(3) of Public Law 97-241 (96 Stat. 292).

[16] The reference to 5 U.S.C. 5536 was inserted in lieu of a reference to sec. 1765 of the Revised Statutes by sec. 304(a)(3) of Public Law 97-241 (96 Stat. 292).

[17] 22 U.S.C. 1453.

TITLE IV—PARTICIPATION BY GOVERNMENT AGENCIES

GENERAL AUTHORITY

Sec. 401.[18] The Secretary [19] is authorized, in carrying on any activity under the authority of this Act, to utilize, with the approval of the President, the services, facilities, and personnel of the other Government agencies. Whenever the Secretary [19] shall use the services, facilities, or personnel of any Government agency for activities under authority of this Act, the Secretary [19] shall pay for such performance out of funds available to the Secretary [19] under this Act, either in advance, by reimbursement, or direct transfer. The Secretary [19] shall include in each report submitted to the Congress under section 1008 a statement of the services, facilities, and personnel of other Government agencies utilized in carrying on activities under the authority of this Act, showing the names and salaries of the personnel utilized, or performing services utilized, during the period covered by such report, and the amounts paid to such other agencies under this section as payment for such performance.

TECHNICAL AND OTHER SERVICES

Sec. 402.[20] A Government agency, at the request of the Secretary,[19] may perform such technical or other services as such agency may be competent to render for the government of another country desirous of obtaining such services, upon terms and conditions which are satisfactory to the Secretary [19] and to the head of the Government agency, when it is determined by the Secretary [19] that such services will contribute to the purposes of this Act. However, nothing in this Act shall authorize the performance of services relating to the organization, training, operation, development, or combat equipment of the armed forces of a foreign government.

POLICY GOVERNING SERVICES

Sec. 403.[21] In authorizing the performance of technical and other services under this title, it is the sense of the Congress (1) that the Secretary [19] shall encourage through any appropriate Government agency the performance of such services to foreign governments by qualified private American individuals and agencies, and shall not enter into the performance of such services to any foreign government where such services may be performed adequately by qualified private American individuals and agencies and such qualified individuals and agencies are available for the performance of such services; (2) that if such services are rendered by a Government agency, they shall demonstrate the technical accomplishments of the United States, such services being of an advisory, investigative, or instructional nature, or a demonstration of a technical process; (3) that such services shall not include the construction of public works or the supervision of the construction of public works, and that, under authority of this Act, a Government agency shall render engineering services related to public works only when the Secretary [19] shall determine that the national interest demands the rendering of such services by a Government agency, but this policy shall not be interpreted to preclude the assignment of individual specialists as advisers to other governments as provided under title III of this Act, together with such incidental assistance as may be necessary for the accomplishment of their individual assignments.

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[18] 22 U.S.C. 1456.

[19] Pursuant to sec. 7(a)(1) of Reorganization Plan No. 2 of 1977, all functions vested in the President, Secretary of State, the Department of State, the Director of the United States Information Agency, and the United States Information Agency by this Act were transferred to the Director of the International Communication Agency. The codified version of this Act has been changed to reflect this transfer of authority.

Subsequently, sec. 303 of Public Law 97-241 (96 Stat. 291) redesignated the International Communication Agency as the United States Information Agency and stated that any reference to the International Communication Agency in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding, shall be deemed to be a reference to the United States Information Agency. Sec. 303 also stated that references to the Director or other official of the International Communication Agency shall be deemed to refer to the Director or other official of the United States Information Agency.

[20] 22 U.S.C. 1457.

[21] 22 U.S.C. 1458.

TITLE V—DISSEMINATING INFORMATION ABOUT THE UNITED STATES ABROAD

GENERAL AUTHORIZATION

Sec. 501.[22] The Secretary [19] is authorized, when he finds it appropriate, to provide for the preparation, and dissemination abroad, of information about the United States, its people, and its policies, through press, publications, radio, motion pictures, and other information media, and through information centers and instructors abroad. Any such information (other than "Problems of Communism" and the "English Teaching Forum" [23] which may be sold by the Government Printing Office) shall not be disseminated within the United States, its territories, or possessions, but, on request, shall be available in the English language at the Department of State,[19] at all reasonable times following its release as information abroad, for examination only by representatives of United States press associations, newspapers, magazines, radio systems, and stations, and by research students and scholars, and, on request, shall be made available for examination only to Members of Congress.

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[22] 22 U.S.C. 1461. The second sentence of sec. 501 was amended by sec. 204 of Public Law 92-352 (86 Stat. 493). It formerly read:

"Any such press release or radio script, on request, shall be available in the English language at the Department of State, at all reasonable times following its release as information abroad, for examination by representatives of United States press associations, newspapers, magazines, radio systems, and stations, and, on request, shall be made available to Members of Congress."

See also sec. 202 of the Foreign Relations Authorization Act, Fiscal Year 1979 (92 Stat. 972) which provided additional direction for the USIA. Entitled "Mission of the International Communication Agency" (since renamed the United States Information Agency), this provision is considered by the USIA as its "second mandate." For complete text of sec. 202, see page 644.

[23] The reference to the "English Teaching Forum" was added by sec. 208 of the ICA Authorization Act, Fiscal Years 1980 and 1981 (Public Law 96-60, 93 Stat. 401).

NOTE.—Notwithstanding the second sentence of section 501, certain films have received Congressional authorization for distribution within the United States. The films and the legislation which authorized their distribution include the following:

a. "Hal David: Expressing a Feeling"—Sec. 212, Public Law 99-93 [H.R. 2068], 99 Stat. 405, approved August 16, 1985.

b. "Afghanistan 1982; the Struggle for Freedom Continues"—Sec. 213, Public Law 99-93 [H.R. 2068], 99 Stat. 405, approved August 16, 1985.

c. "We are Afghanistan"—Sec. 213, Public Law 99-93 [H.R. 2068], 99 Stat. 405, approved August 16, 1985.

d. "Afghanistan: The Hidden War"—Sec. 213, Public Law 99-93 [H.R. 2068], 99 Stat. 405, approved August 16, 1985.

e. "Thanksgiving in Peshawar"—Sec. 216, Public Law 98-164 [H.R. 2915], 97 Stat. 1017, approved November 22, 1983.

f. "Reflections: Samuel Eliott Morison"—Sec. 306, Public Law 97-241 [S. 1193], 96 Stat. 273 at 291, approved August 24, 1982.

g. "And Now Miguel"—Sec. 306, Public Law 97-241 [S. 1193], 96 Stat. 273 at 291, approved August 24, 1982.

h. "In Their Own Words"—Sec. 306, Public Law 97-241 [S. 1193], 96 Stat. 273 at 291, approved August 24, 1982.

i. "Margaret Mead—Reflections"—Sec. 206, Public Law 96-60 [H.R. 3363], 93 Stat. 395 at 398, approved August 15, 1979.

j. "Aspen"—Sec. 207, Public Law 96-60 [H.R. 3363], 93 Stat. 395 at 398, approved August 15, 1979.

k. "The Right to Dignity"—Sec. 207, Public Law 95-426 [H.R. 12598], 92 Stat. 963 at 972, approved October 7, 1978.

l. "Hirshhorn Museum and Sculpture Garden"—Sec. 204, Public Law 95-105 [H.R. 6689], 91 Stat. 844 at 849, approved August 17, 1977.

m. "Man in the Environment"—Sec. 204, Public Law 95-105 [H.R. 6689], 91 Stat. 844 and 849, approved August 17, 1977.

n. "Young Filmmakers Bicentennial Film Series" films—Sec. 204, Public Law 95-105 [H.R. 6689], 91 Stat. 844 at 849, approved August 17, 1977.

o. "Let Poland Be Poland"—Public Law 97-146 [H.J. Res. 382], 96 Stat. 3, approved January 30, 1982.

p. "Montana: The People Speak" slide show—Public Law 97-159 [S. 2166], 96 Stat. 20, approved March 24, 1982.

q. "Dumas Malone: A Journey with Mr. Jefferson"—Public Law 97-388 [S. 3073], 96 Stat. 1948, approved December 23, 1982.

r. "The March"—Public Law 99-369 [H.R. 4985], 100 Stat. 778, approved August 1, 1986.

s. "Echoes"—Public Law 94-350 [S. 3168], 90 Stat. 823, approved July 12, 1976.

t. "Santa Fe"—Public Law 94-350 [S.3168, 90 Stat. 823], approved July 12, 1976.

u. "The Numbers Start With the River"—Public Law 94-350 [S. 3168, 90 Stat. 823], approved July 12, 1976.

v. "The Copland Portrait"—Public Law 94-350 [S. 3168, 90 Stat. 823], approved July 12, 1976.

w. "200"—Public Law 94-350 [S. 3168, 90 Stat. 823], approved July 12, 1976.

x. "Rendezvous"—Public Law 94-350 [S. 3168, 90 Stat. 823], approved July 12, 1976.

y. "Century III—The Gift of Life"—Public Law 94-350 [S. 3168, 90 Stat. 823], approved July 12, 1976.

z. "Life, Liberty, and the Pursuit of Happiness" exhibit—Public Law 94-350 [S. 3168, 90 Stat. 823], approved July 12, 1976.

aa. "America the Way I See It"—Public Law 100-167 [H.R. 3428, 101 Stat. 910], approved November 17, 1987.[24]

POLICIES GOVERNING INFORMATION ACTIVITIES

Sec. 502.[25] In authorizing international information activities under this Act, it is the sense of the Congress (1) that the Secretary [19] shall reduce such Government information activities whenever corresponding private information dissemination is found to be adequate; (2) that nothing in this Act shall be construed to give the Department [19] a monopoly in the production or sponsorship on the air of short-wave broadcasting programs, or a monopoly in any other medium of information.

VOICE OF AMERICA BROADCASTS

Sec. 503.[26] The long-range interests of the United States are served by communicating directly with the peoples of the world by radio. To be effective, the Voice of America (the Broadcasting Service of the United States Information Agency) must win the attention and respect of listeners. These principles will therefore govern Voice of America (VOA) broadcasts:

(1) VOA will serve as a consistently reliable and authoritative source of news. VOA news will be accurate, objective, and comprehensive.

(2) VOA will represent America, not any single segment of American society, and will therefore present a balanced and comprehensive projection of significant America thought and institutions.

(3) VOA will present the policies of the United States clearly and effectively, and will also present responsible discussions and opinion on these policies.

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[24] The language of Public Law 100-167 was repeated as sec. 214 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204, 101 Stat. 1376). For text, see page 622.

[25] 22 U.S.C. 1462.

[26] 22 U.S.C. 1463. sec. 503 was added by sec. 206 of the Foreign Relations Authorization Act, Fiscal Year 1977 (Public Law 94-350).

VOICE OF AMERICA/EUROPE

Sec. 504.[27] As part of its duties and programs under title V of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461 et seq.), Voice of America/Europe shall—

(1) target news and features in accordance with the findings and recommendations of the Young European Survey;

(2) conduct periodic audience evaluations and measurements; and

(3) promote and advertise Voice of America/Europe.

TITLE VI—ADVISORY COMMISSIONS TO FORMULATE POLICIES

Sec. 601.[28] There are hereby created two advisory commissions, (1) United States Advisory Commission on Information (hereinafter in this title referred to as the Commission on Information) and (2) United States Advisory Commission on Educational Exchange (hereinafter in this title referred to as the Commission on Educational Exchange) [29] to be constituted as provided in section 602. The Commissions shall formulate and recommend to the Secretary [19] policies and programs for the carrying out of this Act: *Provided, however,* That the commissions created by this section shall have no authority over the Board of Foreign Scholarships or the program created by Public Law 584 of the Seventy-ninth Congress, enacted August 1, 1946, or the United States National Commission for UNESCO.

MEMBERSHIP OF THE COMMISSION: GENERAL PROVISIONS

Sec. 602.[30] (a) Each Commission shall consist of five members, not more than three of whom shall be from any one political party. Members shall be appointed by the President, by and with the advice and consent of the Senate. No person holding any compensated Federal or State office shall be eligible for appointment.

(b) The members of the Commission on Information shall represent the public interest, and shall be selected from a cross section of professional, business, and public service backgrounds.

(c) The members of the Commission on Educational Exchange shall represent the public interest and shall be selected from a cross section of educational, cultural, scientific, technical, and public service backgrounds.

(d) The term of each member appointed under subsection (a) of this section shall be three years, except that the terms of office of such members first taking office on each Commission shall expire, as designated by the President at the time of appointment, two at the end of one year, two at the end of two years, and one at the end of three years from the date of the enactment of this Act. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor is appointed shall be appointed for the remainder of such term. Upon the expiration of his term of office any member may continue to serve until his successor is appointed and has qualified.

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[27] 22 U.S.C. 1464. Sec. 504 was added by sec. 402 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204, 101 Stat. 1331).

[28] 22 U.S.C. 1466. This section has been repealed insofar as it related to the United States Advisory Commission on Educational Exchange, by Public Law 87-256 (75 Stat. 527).

[29] Sec. 8 of Reorganization Plan No. 2 of 1977 established the United States Advisory Commission on International Communication, Cultural and Educational Affairs, consolidated functions vested in these two commissions and transferred them to this new commission. For text, see vol. v, sec. E. Subsequently, sec. 604 of this Act redesignated the United States Advisory Commission on International Communication, Cultural and Educational Affairs as the United States Advisory Commission on Public Diplomacy.

[30] 22 U.S.C. 1467. This section has been repealed insofar as it related to the United States Advisory Commission on Educational Exchange, by Public Law 87-256 (75 Stat. 527).

(e) The President shall designate a chairman for each Commission from among members of the Commission.

(f) The members of the Commissions shall receive no compensation for their services as such members but shall be entitled to reimbursement for travel and subsistence in connection with attendance of meetings of the Commissions away from their places of residences, as provided in subsection (6) of section 801 of this Act.

(g) The Commissions are authorized to adopt such rules and regulations as they may deem necessary to carry out the authority conferred upon them by this title.

(h) The Department [19] is authorized to provide the necessary secretarial and clerical assistance for the Commissions.

RECOMMENDATIONS AND REPORTS

Sec. 603.[31] The Commissions shall meet not less frequently than once each month during the first six months after their establishment, and thereafter at such intervals as the Commissions find advisable, and shall transmit to the Secretary [19] a quarterly report, and to the Congress a semiannual report of all programs and activities carried on under the authority of this Act, including appraisals, where feasible, as to the effectiveness of the several programs, and such recommendations as shall have been made by the Commissions to the Secretary [19] for effectuating the purposes and objectives of this Act and the action taken to carry out such recommendations.

UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY

Sec. 604.[32] (a) The United States Advisory Commission on International Communication, Cultural and Educational Affairs, established by section 8 of Reorganization Plan Numbered 2 of 1977, is hereby redesignated as the United States Advisory Commission on Public Diplomacy (hereafter in this section referred to as the "Commission").

(b) The Commission shall be composed of seven members who shall be appointed by and serve at the pleasure of the President. The members of the Commission shall represent the public interest and shall be selected from a cross section of educational, communications, cultural, scientific, technical, public service, labor and business, and professional backgrounds. The President shall designate a member to chair the Commission.

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[31] 22 U.S.C. 1468. This section has been repealed insofar as it related to the United States Advisory Commission on Educational Exchange, by Public Law 87-256 (75 Stat. 527).

[32] 22 U.S.C. 1469. Sec. 604 was amended and restated by sec. 213 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204, 101 Stat. 1376). It was added originally by sec. 203(f) of the ICA Authorization Act, Fiscal Years 1980 and 1981 (Public Law 96-60, 93 Stat. 399).

(c) The Commission shall have a staff director who shall be appointed by the Chairman of the Commission. Subject to such rules and regulations as may be adopted by the Commission, the Chairman of the Commission may—

(1) appoint such additional personnel for the staff of the Commission as the Chairman deems necessary; and

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the annual rate of basic pay payable for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code.

(d) This section shall enter into force on January 20, 1989. Any provisions of section 8 of Reorganization Plan Numbered 2 of 1977 inconsistent with this section shall no longer have legal effect on that date. The prohibition limiting membership of individuals from the same political party is repealed.

TITLE VII—APPROPRIATIONS

PRIOR AUTHORIZATION BY CONGRESS

Sec. 701.[33] (a) Notwithstanding any provision of law enacted before the date of enactment of the United States Information Agency Appropriation Authorization Act of 1973, no money appropriated to carry out this Act shall be available for obligation or expenditure–

(1) unless the appropriation thereof has been previously authorized by law; or

(2) in excess of an amount previously prescribed by law.

(b) To the extent that legislation enacted after the making of an appropriation to carry out this Act authorizes the obligation or expenditure thereof, the limitation contained in subsection (a) shall have no effect.

(c) The provisions of this section shall not be superseded except by a provision of law enacted after the date of enactment of the United States Information Agency Appropriation Authorization Act of 1973, which specifically repeals, modifies, or supersedes the provisions of this section.

(d) The provisions of this section shall not apply with respect to appropriations made available under the joint resolution entitled "Joint resolution making continuing appropriations for the fiscal year 1974, and for other purposes", approved July 1, 1973, and any provision of law specifically amending such joint resolution enacted through October 16, 1973.

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[33] 22 U.S.C. 1476. Sec. 701 was amended and restated by sec. 3 of Public Law 93-168, Nov. 29, 1973. It was previously amended and restated by sec. 107(d) of Public Law 92-226 (80 Stat. 35); further amended by adding last sentence by Public Law 92-352.

The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Acts, 1988 and 1989 (sec. 101(a) of Public Law 100-202, 101 Stat. 1329, and Public Law 100-459, 102 Stat. 2186, respectively) waived sec. 701 in appropriating funds for "Salaries and Expenses".

(e) [34] The provisions of this section shall not apply to, or affect in any manner, permanent appropriations, trust funds, and other similar accounts administered by the United States Information Agency [19] as authorized by law.

TRANSFER OF FUNDS

Sec. 702.[35] The Secretary [19] shall authorize the transfer to other Government agencies for expenditure in the United States and in other countries, in order to carry out the purposes of this Act, any part of any appropriations available to the Department [19] for carrying out the purposes of this Act, for direct expenditure or as a working fund, and any such expenditures may be made under the specific authority contained in this Act or under the authority governing the activities of the Government agency to which a part of any such appropriation is transferred, provided the activities come within the scope of this Act.

AUTHORIZATION FOR GRANTS TO RADIO FREE EUROPE AND RADIO LIBERTY

Sec. 703.[36] There are authorized to be appropriated to the Secretary of State $38,520,000 for fiscal year 1973 to provide grants, under such terms and conditions as the Secretary considers appropriate, to Radio Free Europe and Radio Liberty. There are further authorized to be appropriated in fiscal year 1973 not to exceed $1,150,000 for nondiscretionary costs. Except for funds appropriated pursuant to this section, no funds appropriated after the date of this Act may be made available to or for the use of Radio Free Europe or Radio Liberty in fiscal year 1973.

NONDISCRETIONARY PERSONNEL COSTS AND CURRENCY FLUCTUATIONS

Sec. 704.[37] (a) Amounts appropriated for a fiscal year to carry out this Act are authorized to be made available until expended.

(b) There are authorized to be appropriated for the International Communication Agency,[38] in addition to amounts otherwise authorized to be appropriated for the Agency, such sums as may be necessary for any fiscal year for increases in salary, pay, retirement, and other employee benefits authorized by law.

(c) In order to maintain the levels of program activity provided for by the annual authorizing legislation for the International Communication Agency,[38] there are authorized to be appropriated for the Agency such sums as may be necessary for any fiscal year to offset adverse fluctuations in foreign currency exchange rates, or overseas wage and price changes,[39] occurring after November 30 of the earlier of (1) the calendar year which ended during the fiscal year preceding such fiscal year, or (2) the calendar year which preceded the calendar year during which the authorization of appropriations for such fiscal year was enacted.[40]

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[34] Subsec. (e) was added by sec. 6 of Public Law 93-475 (88 Stat. 1439).

[35] 22 U.S.C. 1477.

[36] 22 U.S.C. 1477a. Sec. 703 was added by Public Law 92-264 (86 Stat. 114); further amended when the second sentence was added by Public Law 93-59 on July 6, 1973.

[37] 22 U.S.C. 1477b. Sec. 704 was added by sec. 204(e) of the ICA Authorization Act, Fiscal Years 1980 and 1981 (Public Law 96-60, 93 Stat. 400). Sec. 209 of Public Law 96-60 also provided that this amendment would be effective on October 1, 1979, and that the authority to expend appropriations "shall apply only with respect to funds appropriated after the date of enactment of this Act." (August 15, 1979)

[38] Sec. 303 of Public Law 97-241 (96 Stat. 291) redesignated the International Communication Agency as the United States Information Agency and stated that any reference to the International Communication Agency in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding, shall be deemed to be a reference to the United States Information Agency. Sec. 303 also stated that references to the Director or other official of the International Communication Agency shall be deemed to refer to the Director or other official of the United States Information Agency.

Sec. 705.[41] (a) Unless the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate are notified fifteen days in advance of a proposed reprogramming, funds appropriated for the United States Information Agency shall not be available for obligation or expenditure through any such reprogramming of funds—

(1) which creates new programs;

(2) which eliminates a program, project, or activity;

(3) which increases funds or personnel by any means for any project or activity for which funds have been denied or restricted by the Congress;

(4) which relocates an office or employees;

(5) which reorganizes offices, programs, or activities;

(6) which involves contracting out functions which had been performed by Federal employees; or

(7) which involves a reprogramming in excess of $250,000 or 10 percent, whichever is less, and which (A) augments existing programs, projects, or activities, (B) reduces by 10 percent or more the funding for any existing program, project, or activity, or personnel approved by the Congress, or (C) results from any general savings from a reduction in personnel which would result in a change in existing programs, activities, or projects approved by the Congress.

(b) In addition, the United States Information Agency may award program grants [42] only if the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate are notified fifteen days in advance of the proposed grant.

(c) Funds appropriated for the United States Information Agency may not be available for obligation or expenditure through any reprogramming described in subsection (a) during the period which is the last 15 days in which such funds are available unless notice of such reprogramming is made before such period.

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[39] The words ", or overseas wage and price changes," were added by sec. 112(b) of Public Law 97-241 (96 Stat. 278).

[40] The words, to this point beginning with "earlier of (1) * * *" were substituted in lieu of the words "preceding fiscal year" by sec. 112(b) of Public Law 97-241 (96 Stat. 278).

[41] 22 U.S.C. 1477c. Sec. 214 of Public Law 98-164 (97 Stat. 1035) added sec. 705(a) and (b). Subsec. (c) was added by sec. 202(b) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204, 101 Stat. 1372).

[42] Sec. 202(a) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204, 101 Stat. 1372) deleted the phrase "for the fiscal years 1986 and 1987" at this point. That phrase was inserted in lieu of the original which read "for the fiscal years 1984 and 1985" by sec. 214 of Public Law 99-93 (99 Stat. 405).

TITLE VIII—ADMINISTRATIVE PROCEDURES

THE SECRETARY

Sec. 801.[43] In carrying out the purposes of this Act, the Secretary [44] is authorized, in addition to and not in limitation of the authority otherwise vested in him—

(1) in carrying out title II of this Act,[44] to make grants of money, services, or materials to State and local governmental institutions in the United States, to governmental institutions in other countries, and to individuals and public or private nonprofit organizations both in the United States and in other countries;

(2) to furnish, sell, or rent, by contract or otherwise, educational and information materials and equipment for dissemination to, or use by, peoples of foreign countries;

(3) [45] whenever necessary in carrying out title V of this Act, to purchase, rent, construct, improve, maintain, and operate facilities for radio transmission and reception, including the leasing of associated real property (either within or outside the United States) for periods not to exceed forty years,[46] or for longer periods if provided for by an appropriation Act, and the alteration, improvement, and repair of such property, without regard to section 322 of the Act of June 30, 1932 (40 U.S.C. 278a), and any such real property or interests therein which are outside the United States may be acquired without regard to section 355 of the Revised Statutes of the United States (40 U.S.C. 255) if the sufficiency of the title to such real property or interests therein is approved by the Director of the International Communication Agency;[38]

(4) to provide for printing and binding outside the continental limits of the United States, without regard to section 11 of the Act of March 1, 1919 (44 U.S.C. 111);

(5) [47] to employ persons on a temporary basis without regard to the civil service and classification laws, when such employment is provided for by the pertinent appropriation Act; and

(6) [48] to create with the approval of the Commission on Information and the Commission on Educational Exchange,[49] such

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[43] 22 U.S.C. 1471.

[44] The words "within the limitation of such appropriations as the Congress may provide," which previously appeared at this point, were struck out by sec. 204(a) of the ICA Authorization Act, Fiscal Years 1980 and 1981 (Public Law 96-60, 93 Stat. 400).

[45] Paragraph (3) was amended and restated by sec. 203(e) of the ICA Authorization Act, Fiscal Years 1980 and 1981 (Public Law 96-60, 93 Stat. 399). The substantive change made by this amendment involved the addition of the words beginning with "and the alteration, improvement * * *" through the end of the paragraph.

[46] Sec. 205 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204, 101 Stat. 1331) substituted forty years in lieu of twenty-five years. Sec. 217 of Public Law 98-164 (97 Stat. 1036) had previously substituted twenty-five years in lieu of ten years.

[47] Paragraph (5) was amended and restated by sec. 203(b)(1) of the ICA Authorization Act, Fiscal Years 1980 and 1981 (Public Law 96-60, 93 Stat. 398). Formerly, par. (5) also provided for the employment of aliens within the United States for positions relating to translation or narration of colloquial speech in foreign languages when suitably qualified U.S. citizens were not available.

[48] Paragraph. (6) was amended by sec. 11 of Public Law 87-139 (75 Stat. 341).

[49] Pursuant to sec. 8 of Reorganization Plan No. 2 of 1977, the functions vested in these two commissions were transferred to a newly created United States Advisory Commission on Inter-

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advisory committees as the Secretary [19] may decide to be of assistance in formulating his policies for carrying out the purposes of this Act. No Committee member shall be allowed any salary or other compensation for services; but he may be paid his transportation and other expenses, as authorized by section 5 of the Administrative Expenses Act of 1946, as amended (5 U.S.C. 73 b-2).

GOVERNMENT AGENCIES

Sec. 802.[50] (a) In carrying on activities which further the purposes of this Act, subject to approval of such activities by the Secretary,[19] the Department and the other Government agencies are authorized—

(1) to place orders and make purchases and rentals of materials and equipment;

(2) to make contracts, including contracts with governmental agencies, foreign or domestic, including subdivisions thereof, and intergovernmental organizations of which the United States is a member, and, with respect to contracts entered into in foreign countries, without regard to section 3741 of the Revised Statutes (41 U.S.C. 22);

(3) under such regulations as the Secretary [43] may prescribe, to pay the transportation expenses, and not to exceed $10 per diem in lieu of subsistence and other expenses, of citizens or subjects of other countries, without regard to the Standardized Government Travel Regulations and the Subsistence Act of 1926, as amended; and

(4) to make grants for, and to pay expenses incident to, training and study.

(b) [50] (1) Any contract authorized by subsection (a) and described in paragraph (3) of this subsection which is funded on the basis of annual appropriations may nevertheless be made for periods not in excess of 5 years when—

(A) appropriations are available and adequate for payment for the first fiscal year and for all potential cancellation costs; and

(B) the Director of the United States Information Agency determines that—

(i) the need of the Government for the property or service being acquired over the period of the contract is reasonably firm and continuing;

(ii) such a contract will serve the best interests of the United States by encouraging effective competition or promoting economies in performance and operation; and

(iii) such method of contracting will not inhibit small business participation.

(2) In the event that funds are not made available for the continuation of such a contract into a subsequent fiscal year, the contract shall be canceled and any cancellation costs incurred shall be

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national Communication, Cultural and Educational Affairs (in 1979, such new Commission was redesignated as the United States Advisory Commission on Public Diplomacy).

[50] 22 U.S.C. 1472. Sec. 302(b) of Public Law 97-241 (96 Stat. 292) added the subsection designation "(a)" and a new subsec. (b).

paid from appropriations originally available for the performance of the contract, appropriations currently available for the acquisition of similar property or services and not otherwise obligated, or appropriations made for such cancellation payments.

(3) This subsection applies to contracts for the procurement of property or services, or both, for the operation, maintenance, and support of programs, facilities, and installations for or related to telecommunication activities, newswire services, and the distribution of books and other publications in foreign countries.

MAXIMUM USE OF EXISTING GOVERNMENT PROPERTY AND FACILITIES

Sec. 803.[51] In carrying on activities under this Act which require the utilization of Government property and facilities, maximum use shall be made of existing Government property and facilities.

BASIC AUTHORITY

Sec. 804.[52] In carrying out the provisions of this Act, the Secretary,[19] or any Government agency authorized to administer such provisions, may—

(1)[53] employ, without regard to the civil service and classification laws, aliens within the United States and abroad for service in the United States relating to the translation or narration of colloquial speech in foreign languages or the preparation and production of foreign language programs when suitably qualified United States citizens are not available, and aliens so employed abroad may be admitted to the United States, if otherwise qualified, as nonimmigrants under section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) for such time and under such conditions and procedures as may be established by the Director of the International Communication Agency and the Attorney General;

(2) pay travel expenses of aliens employed abroad for service in the United States and their dependents to and from the United States;

(3) incur expenses for entertainment within the United States within such amounts as may be provided in appropriations Acts;

(4) obtain insurance on official motor vehicles operated by the Secretary[54] or such agency in foreign countries, and pay the expenses incident thereto;

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[51] 22 U.S.C. 1473.

[52] 22 U.S.C. 1474. Sec. 804 was added by Public Law 92-352 (86 Stat. 389).

[53] Paragraph (1) was amended and restated by sec. 203(b)(2) of the ICA Authorization Act, Fiscal Years 1980 and 1981 (Public Law 96-60, 93 Stat. 398). Formerly, par. (1) also included a requirement that such aliens must be investigated pursuant to procedures established by the Secretary or the agency and the Attorney General before they could be employed.

[54] Pursuant to sec. 7(a)(1) of Reorganization Plan No. 2 of 1977, all functions vested in the President, Secretary of State, the Department of State, the Director of the United States Information Agency, and the United States Information Agency by this Act were transferred to the Director of the International Communication Agency. The codified version of this Act has been changed to reflect this transfer of authority.

Subsequently, sec. 303 of Public Law 97-241 (96 Stat. 291) redesignated the International Communication Agency as the United States Information Agency and stated that any reference to the International Communication Agency in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding, shall be deemed

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(5) notwithstanding the provisions of section 2680(k) of title 28, United States Code, pay tort claims in the manner authorized in the first paragraph of section 2672 of such title, when such claims arise in foreign countries in connection with operations conducted abroad under this Act;

(6) employ aliens by contract for services abroad;

(7) provide ice and drinking water abroad;

(8) pay excise taxes on negotiable instruments abroad;

(9) pay the actual expenses of preparing and transporting to their former homes the remains of persons, not United States Government employees, who may die away from their homes while participating in activities conducted under this Act;

(10) rent or lease, for periods not exceeding ten years,[55] office buildings, grounds, and living quarters abroad for employees carrying out this Act, and make payments therefor in advance;

(11) maintain, improve, and repair properties used for information activities in foreign countries;

(12) furnish fuel and utilities for Government-owned or leased property abroad;

(13) pay travel expenses of employees attending official international conferences, without regard to sections 5701–5708 of title 5, United States Code, and regulations issued thereunder, but at rates not in excess of comparable allowances approved for such conferences by the Secretary;

(14) [56] purchase uniforms;

(15) [57] hire passenger motor vehicles;

(16) [57] purchase passenger motor vehicles for use abroad, and right-hand drive and security [58] vehicles may be so purchased without regard to any maximum price limitation established by law;

(17) [57] procure services of experts and consultants in accordance with section 3109 of title 5 of the United States Code;

(18) [57] make advances of funds;

(19) [57] notwithstanding section 5946 of title 5 of the United States Code, pay dues for library membership in organizations which issue publications to members only, or to members at a price lower than to others; and

(20) [59] subject to the availability of appropriated funds, purchase motion picture, radio and television producers' liability insurance to cover errors and omissions or similar insurance coverage for the protection of interests in intellectual property.

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to be a reference to the United States Information Agency. Sec. 303 also stated that references to the Director or other official of the International Communication Agency shall be deemed to refer to the Director or other official of the United States Information Agency.

[55] This period was changed from five years to ten years by sec. 204(b)(1) of the ICA Authorization Act, Fiscal Years 1980 and 1981 (Public Law 96–60, 93 Stat. 400).

[56] Paragraph (14) was added by sec. 203 of the Foreign Relations Authorization Act, Fiscal Year 1977 (Public Law 94–350); and further amended when sec. 204(b)(3) of the ICA Authorization Act, Fiscal Years 1980 and 1981 (Public Law 96–60, 93 Stat. 400) struck out the words "when funds are appropriated therefor" at the end of the paragraph.

[57] Paragraphs (15) through (19) were added by sec. 204(b)(4) of the ICA Authorization Act, Fiscal Years 1980 and 1981 (Public Law 96–60, 93 Stat. 400).

[58] The words "and security" were added by sec. 302(c) of Public Law 97–241 (96 Stat. 293).

[59] Paragraph (20) was added by sec. 304(d) of Public Law 97–241 (96 Stat. 293).

TRAVEL EXPENSES

Sec. 805.[60] Appropriated funds made available for any fiscal year to the Secretary or any Government agency, to carry out the provisions of this Act, for expenses in connection with travel of personnel outside the continental United States, including travel of dependents and transportation of personal effects, household goods, or automobiles of such personnel, shall be available for all such expenses in connection with travel or transportation which begins in that fiscal year pursuant to travel orders issued in that year, notwithstanding the fact that such travel or transportation may not be completed until the following fiscal year.

REPLACEMENT OF PASSENGER MOTOR VEHICLES

Sec. 806.[61] The exchange allowances or proceeds derived from the exchange or sale of passenger motor vehicles used abroad for purposes of this Act or the Mutual Educational and Cultural Exchange Act of 1961 shall be [62] available without fiscal year limitation for replacement of an equal number of such vehicles in accordance with section 201(c) of the Federal Property and Administrative Services Act of 1949.

SEAL OF THE INTERNATIONAL COMMUNICATION AGENCY

Sec. 807.[63] The seal of the International Communication Agency shall be the arms and crest of the United States, encircled by the words "International Communication Agency". Judicial notice shall be taken of the seal.

ACTING ASSOCIATE DIRECTORS

Sec. 808.[64] If an Associate Director of the United States Information Agency dies, resigns, or is sick or absent, the Associate Director's principal assistant shall perform the duties of the office until a successor is appointed or the absence or sickness stops.

COMPENSATION FOR DISABILITY OR DEATH

Sec. 809.[65] A cultural exchange, international fair or exposition, or other exhibit or demonstration of United States economic accomplishments and cultural attainments, provided for under this Act or the Mutual Educational and Cultural Exchange Act of 1961 shall not be considered a "public work" as that term is defined in the first section of the Act of August 16, 1941 (42 U.S.C. 1651; commonly known as the "Defense Base Act").

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[60] 22 U.S.C. 1475. Sec. 805 was added by sec. 202 of Public Law 92-352 (86 Stat. 494).

[61] 22 U.S.C. 1475a. Sec. 806 was added by sec. 204 of the Foreign Relations Authorization Act, Fiscal Year 1977 (Public Law 94-350).

[62] The words "shall be" were substituted in lieu of the words "are authorized to be made" by sec. 204(c) of the ICA Authorization Act, Fiscal Years 1980 and 1981 (Public Law 96-60, 93 Stat. 400).

[63] 22 U.S.C. 1475b. Sec. 807 was added by sec. 204(c) of Public Law 95-426 (92 Stat. 974). Sec. 303 of Public Law 97-241 (96 Stat. 291) redesignated the International Communication Agency as the United States Information Agency and stated that any reference to the International Communication Agency in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding, shall be deemed to be a reference to the United States Information Agency. Sec. 303 also stated that references to the Director or other official of the International Communication Agency shall be deemed to refer to the Director or other official of the United States Information Agency.

[64] 22 U.S.C. 1475c. Sec. 808 was added by sec. 304(e) of Public Law 97-241 (96 Stat. 293).

[65] 22 U.S.C. 1475d. Sec. 809 was added by sec. 304(e) of Public Law 97-241 (96 Stat. 293).

USE OF ENGLISH-TEACHING PROGRAM FEES

Sec. 810.[66] Notwithstanding the provisions of section 3302(b) of title 31, United States Code, or any other law or limitation of authority, all payments received by or for the use of the United States Information Agency from or in connection with English-teaching and library services conducted by or on behalf of the Agency under the authority of this Act or the Mutual Educational and Cultural Exchange Act of 1961 may be credited to the Agency's applicable appropriation to such extent as may be provided in advance in an appropriation Act.

TITLE IX—FUNDS PROVIDED BY OTHER SOURCES

REIMBURSEMENT

Sec. 901.[67] The Secretary [54] shall, when he finds it in the public interest, request and accept reimbursement from any cooperating governmental or private source in a foreign country, or from State or local governmental institutions or private sources in the United States, for all or part of the expenses of any portion of the program undertaken hereunder. The amounts so received shall be covered into the Treasury as miscellaneous receipts.

ADVANCE OF FUNDS

Sec. 902.[68] If any other government shall express the desire to provide funds, property, or services to be used by this Government, in whole or in part, for the expenses of any specific part of the program undertaken pursuant to this Act, the Secretary [54] is authorized, when he finds it in the public interest, to accept such funds, property, or services. Funds so received may be established as a special deposit account in the Treasury of the United States, to be available for the specified purpose, and to be used for reimbursement of appropriations or direct expenditure, subject to the provisions of this Act. Any unexpended balance of the special deposit account and other property received, under this section and no longer required for the purposes for which provided shall be returned to the government providing the funds or property.

TITLE X—MISCELLANEOUS

LOYALTY CHECK OF PERSONNEL

Sec. 1001.[69] * * * [Repealed—1979]

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[66] 22 U.S.C. 1475e. Sec. 810 was amended and restated by sec. 203 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204, 101 Stat. 1373). Sec. 810 was originally added by sec. 304(e) of Public Law 97-241 (96 Stat. 293).

[67] 22 U.S.C. 1478.

[68] 22 U.S.C. 1479.

[69] Sec. 1001, which concerned loyalty checks for personnel, was repealed by sec. 203(a)(1) of the ICA Authorization Act, Fiscal Years 1980 and 1981 (Public Law 96-60, 93 Stat. 398).

DELEGATION OF AUTHORITY

Sec. 1002.[70] The Secretary [54] may delegate to such officers of the Government as the Secretary [54] determines to be appropriate, any of the powers conferred upon him by this Act to the extent that he finds such delegation to be in the interest of the purposes expressed in this Act and the efficient administration of the programs undertaken pursuant to this Act.

RESTRICTED INFORMATION

Sec. 1003.[71] Nothing in this Act shall authorize the disclosure of any information or knowledge in any case in which such disclosure (1) is prohibited by any other law of the United States, or (2) is inconsistent with the security of the United States.

REPEAL OF ACT OF MAY 25, 1938, AS AMENDED

Sec. 1004. (a) The Act of May 25, 1938, entitled "An Act authorizing the temporary detail of United States employees, possessing special qualifications, to governments of American Republics and the Philippines, and for other purposes," as amended (52 Stat. 442; 53 Stat. 652), is hereby repealed.

(b) Existing Executive orders and regulations pertaining to the administration of such Act of May 25, 1938, as amended, shall remain in effect until superseded by regulations prescribed under the provisions of this Act.

(c) Any reference in the Foreign Service Act of 1946 (60 Stat. 999), or in any other law, to provisions of such Act of May 25, 1938, as amended, shall be construed to be applicable to the appropriate provisions of titles III and IX of this Act.

UTILIZATION OF PRIVATE AGENCIES

Sec. 1005.[72] In carrying out the provisions of this Act it shall be the duty of the Secretary [54] to utilize, to the maximum extent practicable, the services and facilities of private agencies, including existing American press, publishing, radio, motion picture, and other agencies, through contractual arrangements or otherwise. It is the intent of Congress that the Secretary [54] shall encourage participation in carrying out the purposes of this Act by the maximum number of different private agencies in each field consistent with the present or potential market for their services in each country.

TERMINATION PURSUANT TO CONCURRENT RESOLUTION OF CONGRESS

Sec. 1006. The authority granted under this Act shall terminate whenever such termination is directed by concurrent resolution of the two Houses of the Congress.

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[70] 22 U.S.C. 1435.

[71] 22 U.S.C. 1436.

[72] 22 U.S.C. 1437.

VETERANS' PREFERENCE ACT

Sec. 1007.[73] No provision of this Act shall be construed to modify or to repeal the provisions of the Veterans' Preference Act of 1944.

REPORTS TO CONGRESS

Sec. 1008.[74] * * * [Repealed—1980]

REGULATORY PROVISIONS TO APPLY TO ALL INTERNATIONAL INFORMATION ACTIVITIES AND EDUCATIONAL EXCHANGES OF STATE DEPARTMENT

Sec. 1009.[75] All provisions in this Act regulating the administration of international information activities and educational exchanges provided herein, shall apply to all such international activities under jurisdiction of the Department of State.

SEPARABILITY OF PROVISIONS

Sec. 1010. If any provision of this Act or the application of any such provision to any person or circumstance shall be held invalid, the validity of the remainder of the Act and the applicability of such provision to other persons or circumstances shall not be affected thereby.

INFORMATIONAL MEDIA GUARANTIES

Sec. 1011.[76] (a)[77] The Director of the United States Information Agency may make guaranties, in accordance with the provisions of subsection (b) of section 413 of the Mutual Security Act of 1954,[78] of investments in enterprises producing or distributing informational media consistent with the national interests of the United States: *Provided,* That the purpose of making informational media guaranties shall be the achievement of the foreign policy objectives of the United States, including the objective mentioned in sections 413(b)(4)(A) and 413(b)(4)(G) of the Mutual Security Act of 1954,[78] as amended.

(b)[79] The Director is authorized to assume the obligation of not to exceed $28,000,000 of the notes authorized to be issued pursuant to subsection 111(c)(2) of the Economic Cooperation Act of 1948, as amended (22 U.S.C. 1509(c)(2)), together with the interest accrued and unpaid thereon, and to obtain advances from time to time from the Secretary of the Treasury up to such amount, less amounts previously advanced on such notes, as provided for in said notes. Such advances shall be deposited in a special account in the Treasury available for payments under informational media guaranties.

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[73] 22 U.S.C. 1438.

[74] Sec. 1008, which had required an annual report from the Secretary to Congress on expenditures and activities carried out under this Act, was repealed by sec. 117 of Public Law 96-470 (94 Stat. 2240).

[75] 22 U.S.C. 1440. This section has been repealed insofar as it related to educational exchange activities, by sec. 111(a)(2) of Public Law 87-256 (75 Stat. 538).

[76] 22 U.S.C. 1442.

[77] This subsection was added by sec. 544 of the Mutual Security Act of 1954 (68 Stat. 862). The proviso was added by sec. 701(c) of the Mutual Security Act of 1959 (73 Stat. 257).

[78] Sec. 413 of the Mutual Security Act of 1954, which related to the encouragement of free enterprise and private participation, was repealed by sec. 642(a)(2) of the Foreign Assistance Act of 1961 (75 Stat. 460). See sec. 601 of such Act for similar language.

[79] Subsecs. (b) through (g) were added by sec. 11(g) of the Mutual Security Act of 1956 (70 Stat. 563).

(c) [79] The Director is authorized to make informational media guaranties without regard to the limitations of time contained in subsection 413(b)(4) of the Mutual Security Act of 1954, as amended (22 U.S.C. 1933(b)(4)), but the total of such guaranties outstanding at any one time shall not exceed the sum of the face amount of the notes assumed by the Director less the amounts previously advanced on such notes by the Secretary of the Treasury plus the amount of the funds in the special account referred to in subsection (b).

(d) [79] Foreign currencies available after June 30, 1955, from conversions made pursuant to the obligation of informational media guaranties may be sold, in accordance with Treasury Department regulations, for dollars which shall be deposited in the special account and shall be available for payments under new guaranties. Such currencies shall be available, as may be provided for by the Congress in appropriation Acts, for use of educational, scientific, and cultural purposes which are in the national interest of the United States, and for such other purposes of mutual interest as may be agreed to by the governments of the United States and the country from which the currencies derive.

(e) [79] Notwithstanding the provisions of subparagraph 413(b)(4)(E) of the Mutual Security Act of 1954, as amended (22 U.S.C. 1933(b)(4)(E), (1) fees collected for the issuance of informational media guaranties shall be deposited in the special account and shall be available for payments under informational media guaranties; and (2) the Director may require the payment of a minimum charge of up to fifty dollars for issuance of guaranty contracts, or amendments thereto.

(f) [79] The Director is further authorized, under such terms as he may prescribe, to make advance payments under informational media guaranties: *Provided,* That currencies receivable from holders of such guaranties on account of such advance payments shall be paid to the United States within nine months from the date of the advance payment and that appropriate security to assure such payments is required before any advance payment is made.

(g) [79] As soon as feasible after the enactment of this subsection, all assets, liabilities, income, expenses, and charges of whatever kind pertaining to informational media guaranties, including any charges against the authority to issue notes provided in section 111(c)(2) of the Economic Cooperation Act of 1948, as amended, cumulative from the enactment of that Act, shall be accounted for separately from other guaranties issued pursuant to subsection 413(b) of the Mutual Security Act of 1954, as amended (22 U.S.C. 1933(b)): *Provided,* That there shall be transferred from the special account established pursuant to subsection (b), into the account available for payments under guaranties other than informational media guaranties, an amount equal to the total of the fees received for the issuance of guaranties other than informational media guaranties, and used to make payments under informational media guaranties.

(h)[80] (1) There is authorized to be appropriated annually an amount to restore in whole or in part any realized impairment to the capital used in carrying on the authority to make informational media guaranties, as provided in subsection (c), through the end of the last completed fiscal year.

(2) Such impairment shall consist of the amount by which the losses incurred and interest accrued on notes exceed the revenue earned and any previous appropriations made for the restoration of impairment. Losses shall include the dollar losses on foreign currencies sold, and the dollar cost of foreign currencies which (a) the Secretary of the Treasury, after consultation with the Director, has determined to be unavailable for, in excess of, requirements of the United States, or (b) have been transferred to other accounts without reimbursement to the special account.

(3) Dollars appropriated pursuant to this section shall be applied to the payment of interest and in satisfaction of notes issued or assumed hereunder, and to the extent of such application to the principal of the notes, the Director is authorized to issue notes to the Secretary of the Treasury which will bear interest at a rate to be determined by the Secretary of the Treasury, taking into consideration the current average market yields of outstanding marketable obligations of the United States having maturities comparable to the guaranties. The currencies determined to be unavailable for, or in excess of requirements of the United States as provided above shall be transferred to the Secretary of the Treasury to be held until disposed of, and any dollar proceeds realized from such disposition shall be deposited in miscellaneous receipts.

(4)[81] Section 701(a) of this Act shall not apply with respect to any amounts appropriated under this section for the purpose of liquidating the notes (and any accrued interest thereon) which were assumed in the operation of the informational media guaranty program under this section and which were outstanding on the date of enactment of this paragraph.

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[80] Subsec. (h) was added by sec. 502(i) of the Mutual Security Act of 1958 (72 Stat. 274).

[81] Paragraph (4) was added by sec. 304(f) of Public Law 97-241 (96 Stat. 293).

b. United States Information Agency Authorization Act, Fiscal Years 1988 and 1989

Partial text of Public Law 100-204 [Foreign Relations Authorization Act, Fiscal Years 1988 and 1989; H.R. 1777], 101 Stat. 1331, approved December 22, 1987

> NOTE.—Deleted sections of this Act amend State Department, USIA, and other foreign affairs legislation and are incorporated in the appropriate acts.

AN ACT To authorize appropriations for fiscal years 1988 and 1989 for the Department of State, the United States Information Agency, the Voice of America, the Board for International Broadcasting, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—DEPARTMENT OF STATE

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TITLE II—THE UNITED STATES INFORMATION AGENCY

SEC. 201.[1] AUTHORIZATION OF APPROPRIATIONS; ALLOCATION OF FUNDS.

There are authorized to be appropriated to the United States Information Agency the following amounts to carry out international information activities under the United States Information and Educational Exchange Act of 1948, Reorganization Plan Number 2 of 1977, and other purposes authorized by law:

(1) For "Salaries and Expenses", $369,455,000 for the fiscal year 1988 and $376,845,000 for the fiscal year 1989;

(2)[2] For "Television and Film Service", $30,391,000 for the fiscal year 1988 and $30,999,000 for the fiscal year 1989; and

(3)[3] For "East-West Center", $20,000,000 for the fiscal year 1988 and $20,400,000 for the fiscal year 1989.

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[1] Previous authorizations of appropriations may be found under individual United States Information Agency Authorization Acts in this volume.

[2] The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1988 (sec. 101(a) of the Continuing Appropriations Act of 1988, Public Law 100-202, 101 Stat. 1329) provided the following appropriations for "Television and Film Service": $36,900,000. In appropriating fiscal year 1988 funds for "Salaries and Expenses", however, it waived sec. 201(2).

The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1989 (Public Law 100-459, 102 Stat. 2186), provided appropriations of $38,500,000 for "Television and Film Service", and waived sec. 201(2).

[3] The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1988 (sec. 101(a) of the Continuing Appropriations Act of 1988, Public Law 100–

Continued

SEC. 204.[4] USIA POSTS AND PERSONNEL OVERSEAS.

(a) PROHIBITION.—No funds authorized to be appropriated by this Act or any other Act may be used to pay any expense associated with the closing of any United States Information Agency post abroad. No funds authorized to be appropriated by this Act shall be used to pay for any expense associated with the Bureau of Management or with the television and film service of the United States Information Agency if a United States Information Agency post abroad is closed after April 1, 1987, and not reopened within 180 days of the date of enactment of this Act.

(b) LIMITATION ON REDUCTION OF POSITIONS.—Reductions shall not be made in the number of positions filled by American employees of the United States Information Agency stationed abroad until the number of such employees is the same percentage of the total number of American employees of the Agency as the number of American employees of the Agency stationed abroad in 1981 was to the total number of American employees of the Agency at the same time in 1981.

(c) WAIVER.—Subsections (a) and (b) shall not apply to any United States Information Agency post closed—

(1) after January 1, 1987, and before the date of enactment of this Act if the host government will not allow that post to be reopened;

(2) because of a break or downgrading of diplomatic relations between the United States and the country in which the post is located;

(3) where there is a real and present threat to American diplomats in the city where the post is located and where a travel advisory warning against American travel to the city has been issued by the Department of State; or

(4) when the post is closed so as to provide funds to open a new post, staffed by at least one full-time foreign service officer, and where the Director of the United States Information Agency reports to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives that—

(A) the new post is a higher priority than the post proposed to be closed; and

(B) the total number of United States Information Agency posts abroad staffed by full-time Foreign Service employees of the Agency is not less than the number of such posts in existence on April 1, 1987.

(d) SEQUESTRATION.—In the case that a sequestration order is issued pursuant to Part C of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 et seq.; Public Law 99–

202, 101 Stat. 1329) provided the following appropriations for the "East-West Center": $20,000,000.

The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1989 (Public Law 100–459, 102 Stat. 2186), provided appropriations of $20,000,000 for the "East-West Center".

[4] 22 U.S.C. 1461 note. Sec. 204 was waived during fiscal years 1988 and 1989 by sec. 305 of the Department of State Appropriations Act, 1988 (sec. 101(a) of the Continuing Appropriations Act for Fiscal Year 1988, Public Law 100-202, 101 Stat. 1329). In providing appropriations for fiscal year 1988 for United States Information Agency "Salaries and Expenses", however, sec. 101(a) of the Continuing Appropriations Act, 1988, also waived sec. 204.

177), the Director of the United States Information Agency may, as part of an agency wide austerity proposal, submit a report proposing a list of United States Information Agency posts to be downgraded or closed in order to comply with the sequestration order, together with a justification for the inclusion of each post on such list. Such report shall be submitted to the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives.

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SEC. 206. UNITED STATES INFORMATION AGENCY PROGRAMMING ON AFGHANISTAN.

(a) THE AFGHANISTAN COUNTRY PLAN.—The Director of the United States Information Agency shall implement a formal, comprehensive country plan on Afghanistan based on the guidelines set forth in the United States Information Agency country plan instructions for fiscal year 1988.

(b) REPORT TO CONGRESS.—Not later than 60 days after the date of the enactment of this Act, the Director of the United States Information Agency shall provide Congress in writing with the proposed comprehensive Afghanistan country plan.

SEC. 207.[5] TELEVISION SERVICE OF THE UNITED STATES INFORMATION AGENCY.

The television and film service of the United States Information Agency, including Worldnet broadcasts, shall operate under the same criteria and conditions as are specified for the Voice of America by section 503 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1463).

SEC. 208. LIMITATION ON WORLDNET FUNDING.

Funds may not be reprogrammed in fiscal years 1988 and 1989 from any program, project, or activity for Worldnet. Funds may not be transferred in fiscal years 1988 and 1989 from any other account for Worldnet.

SEC. 209. AUDIENCE SURVEY OF WORLDNET PROGRAM.

(a) EARMARK.—Of the funds authorized to be appropriated for USIA's Worldnet Program by section 201(2), not less than $500,000 for the fiscal year 1988 shall be available only for the purpose of conducting a market survey in Europe of USIA's Worldnet programming.

(b) QUALIFICATIONS OF SURVEYOR.—Such survey shall be conducted by a television market survey company which has a long established reputation for objective estimates of television audience size and which has not less than 15 years of substantial experience in estimating audience size.

(c) REPORT.—Not later than 9 months after the date of enactment of this Act, the Director of the United States Information Agency shall submit a report to the Chairman of the Committee on Foreign Relations of the Senate and the Chairman of the House Committee on Foreign Affairs containing—

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[5] 22 U.S.C. 1463 note.

(1) the best estimate by the company performing the audience survey of the number of persons in Europe who watch, on a daily basis, the passive (noninteractive) shows of USIA's Worldnet Program. Such estimate shall include the number of persons who watch a part of the daily passive (noninteractive) shows of USIA's Worldnet Program and the number of persons who watch such programs in their entirety;

(2) a description of the demographic composition and nationality of the persons watching such programs; and

(3) the entire report prepared by the company conducting the survey.

(d) NOTIFICATION OF SELECTED SURVEYOR.—At least 30 days prior to the approval by the Director of the United States Information Agency of a contract with a company conducting the survey required by this section, the Director shall provide the Chairman of the Senate Committee on Foreign Relations and the Chairman of the House Foreign Affairs Committee of the name of the company selected to conduct the survey together with a copy of the proposed contract.

(e) LIMITATION.—No funds authorized to be appropriated to the United States Information Agency shall be expended after October 1, 1988, on the production or acquisition of passive (noninteractive) programs for USIA's Worldnet television service unless—

(1) the survey required by this section has been completed in the manner described by this section;

(2) the report required by this section, along with a copy of the survey results, has been submitted to the Chairman of the Committee on Foreign Relations of the Senate and the Chairman of the Committee on Foreign Affairs of the House of Representatives; and

(3) the survey shows with a high degree of reliability that the average daily European audience for the passive (noninteractive) programs of USIA's Worldnet television service is not less than 2,000,000 viewers.

SEC. 210. NATIONAL ENDOWMENT FOR DEMOCRACY.

In addition to amounts authorized to be appropriated by section 201, there are authorized to be appropriated to the United States Information Agency $17,500,000 for the fiscal year 1988 [6] and $18,100,000 for the fiscal year 1989 [7] to be available only for a grant to the National Endowment for Democracy for carrying out its purposes, of which not less than $250,000 for the fiscal year 1988 shall be used to support elements of the free press, including free radio, and the democratic civic opposition inside Nicaragua which espouse democratic principles and objectives. As is the case with all programs of the National Endowment for Democracy, no employee of any department, agency, or other component of the United States Government may participate, directly or indirectly, in controlling and directing the use of these funds to the free press and democratic civic opposition inside Nicaragua.

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[6] The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1988 (sec. 101(a) of the Continuing Appropriations Act of 1988, Public Law 100-202, 101 Stat. 1329) provided the following appropriations for the "National Endowment for Democracy": $16,875,000.

[7] The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1989 (Public Law 100-459, 102 Stat. 2222) provided the following appropriations for the "National Endowment for Democracy": $15,800,000.

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SEC. 214.[8] DISTRIBUTION WITHIN THE UNITED STATES OF USIA FILM ENTITLED "AMERICA THE WAY I SEE IT".

Notwithstanding section 208 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (22 U.S.C. 1461-1a) and the second sentence of section 501 of the United States Information and Education Exchange Act of 1948 (22 U.S.C. 1461)[9]—

(1) the Director of the United States Information Agency shall make available to the Archivist of the United States a master copy of the film entitled "America The Way I See It"; and

(2) upon evidence that necessary United States rights and licenses have been secured and paid for by the person seeking domestic release of the film, the Archivist shall—

(A) reimburse the Director for any expenses of the Agency in making that master copy available;

(B) deposit that film in the National Archives of the United States; and

(C) make copies of that film available for purchase and public viewing within the United States.

Any reimbursement to the Director pursuant to this section shall be credited to the applicable appropriation of the United States Information Agency.

SEC. 215. AVAILABILITY OF CERTAIN USIA PHOTOGRAPHS FOR DISTRIBUTION WITHIN THE UNITED STATES BY THE DEPARTMENT OF DEFENSE.

Notwithstanding section 208 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (22 U.S.C. 1461-1a) and the second sentence of section 501 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461),[9] the Director of the United States Information Agency shall make available, upon request, to the Secretary of Defense and the Secretaries of the military departments concerned photographs of military operations and military related activities that occurred in the Republic of Vietnam for the purpose of developing and publishing military histories by those departments. The Secretary of Defense, or the Secretary of the military department concerned, as appropriate, shall reimburse the Director for any expenses involved in making such photographs available. Any reimbursement to the Director pursuant to this section shall be credited to the applicable appropriation of the United States Information Agency.

SEC. 216. USIA UNDERGRADUATE SCHOLARSHIP PROGRAM.

(a) INCREASED FUNDING FOR CARIBBEAN REGION.—It is the sense of the House of Representatives that the United States Information Agency should provide increased funding for students in the Caribbean region under the scholarship program for developing countries established by title VI of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987.[10]

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[8] Sec. 214 was also enacted as Public Law 100-167 (101 Stat. 910). For a listing of other USIA films for which distribution within the United States has been authorized in recent years, see page 601.

[9] Secs. 208 and 501 noted in this sentence restricted the domestic activities of the United States Information Agency.

(b) DEFINITION.—

(1) As used in this section, the term "Caribbean region" means—

(A) Antigua and Barbuda, Aruba, the Bahamas, Barbados, Belize, Cuba, Dominica, the Dominican Republic, Grenada, Guyana, Haiti, Jamaica, St. Christopher and Nevis, St. Vincent and the Grenadines, St. Lucia, Trinidad and Tobago;

(B) Anguilla, British Virgin Islands, Cayman Islands, Montserrat, Netherlands Antilles, Turks and Caicos Islands; and

(C) French Guiana, Guadeloupe, and Martinique.

(2) Nothing in this subsection may be construed to encourage or authorize scholarships for students from any country which is a Communist country.

TITLE III—EDUCATIONAL AND CULTURAL AFFAIRS

SEC. 301. AUTHORIZATIONS OF APPROPRIATIONS.

(a)[11] AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized to be appropriated by section 201, there are authorized to be appropriated to the United States Information Agency for the Bureau of Educational and Cultural Affairs $188,625,000 for the fiscal year 1988[12] and $192,438,000 for the fiscal year 1989[13] to carry out the purposes of the Mutual Educational and Cultural Exchange Act of 1961.[14] Of the funds authorized to be appropriated by this section, not less than—

(1) $93,000,000 for the fiscal year 1988 and $93,000,000 for the fiscal year 1989 shall be available only for grants for the Fulbright Academic Exchange Programs;

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[10] For text of title VI see page 683.

[11] Previous authorizations of appropriations may be found in individual United States Information Agency Authorization Acts.

[12] The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1988 (sec. 101(a) of the Continuing Appropriations Act of 1988, Public Law 100-202, 101 Stat. 1329) provided the following for "Educational and Cultural Exchange Programs":

"Notwithstanding section 301(a)(1) through (7) of H.R. 1777 (the Foreign Relations Authorization Act, fiscal years 1988 and 1989), for expenses of Fulbright, International Visitor, Humphrey Fellowship and Congress-Bundestag Exchange Programs, as authorized by Reorganization Plan No. 2 of 1977 and the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2451 et seq.), $142,310,000: PROVIDED, That not less than $540,000 shall be made available to the Institute for Representative Government for a pilot program for exchanges of persons and other exchange-related activities with legislators and legislatures of developing democracies: PROVIDED FURTHER, That not less than $2,000,000 shall be made available for a grant to the Oregon Historical Society to assist in the establishment of the North Pacific Research Center in Portland, Oregon. For the Private Sector Exchange Programs, $7,730,000 of which $500,000 shall be available only for the Seattle Goodwill Games Organizing Committee for Cultural Exchange and other exchange-related activities associated with the 1990 Goodwill Games to be held in Seattle, Washington."

[13] The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1989 (Public Law 100-459, 102 Stat. 2221) provided the following for "Educational and Cultural Exchange Programs": $150,040,000, to be disbursed by the programs listed in subpar. (1) through (4), and of the appropriation "$9,290,000 is for Private Sector Programs including up to $1,500,000, to remain available until expended, for the Eisenhower Exchange Fellowship Program."

[14] For text of the Mutual Educational and Cultural Exchange Act of 1961, see page 664.

(2) $39,000,000 for the fiscal year 1988 and $39,000,000 for the fiscal year 1989 shall be available only for grants for the International Visitors Program;

(3) $5,250,000 for the fiscal year 1988 and $5,250,000 for the fiscal year 1989 shall be available only for grants for the Hubert H. Humphrey Fellowship Program;

(4) $2,500,000 for the fiscal year 1988 and $2,500,000 for the fiscal year 1989 shall be available only for the Congress-Bundestag Exchange;

(5) $500,000 for the fiscal year 1988 and $500,000 for the fiscal year 1989 shall be available only to the Seattle Goodwill Games Organizing Committee for Cultural Exchange and other exchange-related activities associated with the 1990 Goodwill Games to be held in Seattle, Washington;

(6)[15] $5,000,000 for the fiscal year 1988 and $5,000,000 for the fiscal year 1989 shall be available only for the Arts America Program; and

(7) $300,000 for the fiscal year 1988 shall be available only for books and materials to complete the collections at the Edward Zorinsky Memorial Library in Jakarta, Indonesia.

(b) ALLOCATION OF FUNDS FOR EXCHANGES BETWEEN THE UNITED STATES AND THE SOVIET UNION.—(1) Of the funds authorized to be appropriated by subsection (a), not less than $2,000,000 shall be available only for grants for exchange of persons programs between the United States and the Soviet Union.

(2) Funds allocated by paragraph (1) or (2) of subsection (a) may be counted toward the allocation required by this subsection to the extent that such funds are used, in accordance with their respective programs, for grants for exchange of persons programs between the United States and the Soviet Union.

SEC. 302. SAMANTHA SMITH MEMORIAL EXCHANGE PROGRAM.

(a)[16] * * *

(b) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized to be appropriated by section 301, there is authorized to be appropriated $2,000,000 for fiscal year 1988 and $2,000,000 for fiscal year 1989 to carry out the program established by the amendment made by subsection (a).

SEC. 303.[17] * * *

SEC. 304. PROFESSORSHIP ON CONSTITUTIONAL DEMOCRACY.

(a) FEDERAL SUPPORT FOR PROFESSORSHIP.—The President, in support of the statutory program of American studies abroad, is directed to foster studies in constitutional democracy at the Santo Tomas University in the Republic of the Philippines by supporting at such university under section 102(b)(4) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2452(b)(4)) a professorship on the subject of constitutional democracy, if such professorship is established by such university.

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[15] The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1989 (Public Law 100–459, 102 Stat. 2221), paragraph appropriating funds for "Salaries and Expenses" waived sec. 301(a)(6).

[16] Subsec. (a) amended sec. 112(a) of the Mutual Educational Exchange Act of 1961 to establish the Samantha Smith Memorial Exchange Program. For text, see page 677.

[17] Sec. 303 amended sec. 112(a) of the Mutual Educational Exchange Act of 1961 to establish the Arts America Program. For text, see page 677.

(b) Financial Support for the Professorship.—If the professorship referred to in subsection (a) is established by the Santo Tomas University in the Republic of the Philippines, veterans of the Pacific theater in World War II and veterans of the Korean conflict and Vietnam era are encouraged to contribute funds under section 105(f) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f)) to support such professorship.

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SEC. 306. THE EDWARD ZORINSKY MEMORIAL LIBRARY.

(a) Memorial for Edward Zorinsky.—The United States Information Service library in Jakarta, Indonesia is named "The Edward Zorinsky Memorial Library".

(b) Memorial Plaque.—The Director of the United States Information Agency shall cause a plaque to be made and prominently displayed at the library described in subsection (a). The plaque shall bear the following inscription:

"THE EDWARD ZORINSKY MEMORIAL LIBRARY

"This library is dedicated to the memory of Edward Zorinsky, United States Senator from Nebraska. As a Senator, Edward Zorinsky worked tirelessly to promote the free exchange of ideas and people between the United States and other countries. This library, which is a forum for the exchange of ideas and knowledge between the people of the United States and the people of Indonesia, was reopened after a hiatus of more than twenty years as a result of legislation authored by Senator Zorinsky.".

SEC. 307. CULTURAL PROPERTY ADVISORY COMMITTEE.

(a)[18] * * *

(b) * * *

(c) Application.—The amendment made by subsection (a) shall apply to members of the Cultural Property Advisory Committee first appointed after the date of enactment of this Act.

TITLE IV—VOICE OF AMERICA

SEC. 401.[19] AUTHORIZATIONS OF APPROPRIATIONS.

In addition to the amounts authorized to be appropriated under title II, there are authorized to be appropriated the following

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[18] Subsec. (a) amended sec. 306(b)(3)(A) of the Convention on Cultural Property Implementation Act to establish terms of service for members of the Cultural Property Advisory Committee.

[19] The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1989 (Public Law 100–459, 102 Stat. 2221) provided the following appropriation for "Radio Construction":

"For an additional amount for the purchase, rent, construction, and improvement of facilities for radio transmission and reception and purchase and installation of necessary equipment for radio transmission and reception as authorized by 22 U.S.C. 1471, $65,000,000, to remain available until expended as authorized by 22 U.S.C. 1477b(a): *Provided*, That not to exceed $7,500,000 of these funds may be available for the purchase, rent, construction, improvement and equipping of facilities for an startup operations including a test of television broadcasting to Cuba: *Provided further*, That in conducting such startup operations the United States Information Agency shall use a tethered aerostat operated and located at Cudjoe Key Air Force Base in Key West, Florida, if feasible and subject to reimbursement, for both the United States Customs

Continued

amounts to the United States Information Agency for the Voice of America for the purpose of carrying out title V of the United States Information and Educational Exchange Act of 1948 and the Radio Broadcasting to Cuba Act:

(1) for "Salaries and Expenses", $177,200,000 for the fiscal year 1988 and $180,744,000 for the fiscal year 1989;

(2)[20] for "Voice of America/Europe", $3,000,000 for the fiscal year 1988 and $3,060,000 for the fiscal year 1989; and

(3)[19, 21] for "Radio Broadcasting to Cuba", $12,652,000 for the fiscal year 1988[22] and $12,905,000 for the fiscal year 1989.[23]

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SEC. 403.[24] CONTRACTOR REQUIREMENTS.

(a) Findings.—The Congress finds that the overriding national security aspects of the $1,300,000,000 facilities modernization program of the Voice of America require the assurance of uninterrupted logistic support under all circumstances for the program. Therefore, it is in the best interests of the United States to provide a preference for United States contractors bidding on the projects of this program.

(b) Responsive Bid.—A bid shall not be treated as a responsive bid for purposes of the facilities modernization program of the Voice of America unless the bidder can establish that the United States goods and services content, excluding consulting and management fees, of his proposal and the resulting contract will not be less than 55 percent of the value of his proposal and the resulting total contract.

(c) Preference for United States Contractors.—Notwithstanding any other provision of law, in any case where there are two or more qualified bidders on projects of the facilities modernization program of the Voice of America, including design and construc-

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Service's drug interdiction efforts and the United States Information Agency's test of television broadcasting to Cuba: *Provided further,* That the Department of Defense shall provide the necessary military support required to support this effort to the maximum extent possible: *Provided further,* That all such television broadcasting activities shall be conducted for the same purposes and, to the extent feasible, under the same conditions, direction and controls as the radio broadcasting activities authorized by the radio Broadcasting to Cuba Act: *Provided further,* That notwithstanding the preceding proviso, section 7 of the Radio Broadcasting to Cuba Act shall not apply to television broadcasting station licensees."

[20] The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1988 (sec. 101(a) of the Continuing Appropriations Act of 1988, Public Law 100–202, 101 Stat. 1329) provided the following: "Funds appropriated to the United States Information Agency for radio construction and to the Board for International Broadcasting for facility modernization, including for both agencies balances available from prior years, may be transferred between the two agencies to meet priority broadcasting facility improvement needs as mutually agreed to by the Director of the United States Information Agency and the Chairman of the Board for International Broadcasting: Provided, That such transfers will be subject to the approval of the Committees on Appropriations of the House of Representatives and the United States Senate pursuant to the reprogramming provisions of section 608 of this Act."

[21] Previous authorizations of appropriations for "Radio Broadcasting to Cuba" may be found in the Radio Broadcasting to Cuba Act on page 757.

[22] The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1988 (sec. 101(a) of the Continuing Appropriations Act of 1988, Public Law 100–202, 101 Stat. 1329) provided the following appropriation for "Radio Broadcasting to Cuba": $12,759,000.

[23] The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1989 (Public Law 100–459, 102 Stat. 2222) provided the following appropriation for "Radio Broadcasting to Cuba": $11,175,000.

[24] 22 U.S.C. 1471 note.

tion projects and projects with respect to transmitters, antennas, spare parts, and other technical equipment, all the responsive bids of United States persons and qualified United States joint venture persons shall be considered to be reduced by 10 percent.

(d) Exception.—

(1) Subsection (c) shall not apply with respect to any project of the facilities modernization program of the Voice of America when—

(A) precluded by the terms of an international agreement with the host foreign country;

(B) a foreign bidder can establish that he is a national of a country whose government permits United States contractors and suppliers the opportunity to bid on a competitive and nondiscriminatory basis with its national contractors and suppliers, on procurement and projects related to the construction, modernization, upgrading, or expansion of—

(i) its national public radio and television sector, or

(ii) its private radio and television sector, to the extent that such procurement or project is, in whole or in part, funded or otherwise under the control of a government agency or authority; or

(C) the Secretary of Commerce certifies (in advance of the award of the contract for that project) to the Director of the United States Information Agency that the foreign bidder is not receiving any direct subsidy from any government, the effect of which would be to disadvantage the competitive position of United States persons who also bid on the project; or

(D) the statutes of a host foreign country prohibit the use of United States contractors on such projects within that country.

(2) An exception under paragraph (1)(D) shall only become effective with respect to a foreign country 30 days after the Secretary of State certifies to the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate what specific actions the Secretary has taken to urge the foreign country to permit the use of United States contractors on such projects.

(d) Definitions.—For purposes of this section—

(1) the term "United States person" means a person that—

(A) is incorporated or otherwise legally organized under the laws of the United States, including any State (and any political subdivision thereof) and the District of Columbia;

(B) has its principal place of business in the United States;

(C) has been incorporated or otherwise legally organized in the United States for more than 5 years before the issuance date of the Invitation For Bids or the Request For Proposals with respect to a modernization project under subsection (b);

(D) has proven, as indicated by prior contracting experience, to possess the technical, managerial, and financial capability to successfully complete a project similar in nature and technical complexity to that being contracted for;

(E)(i) employs United States citizens in at least 80 percent of its principal management positions in the United States;

(ii) employs United States citizens in more than half of its permanent, full-time positions in the United States; and

(iii) will employ United States citizens in at least 80 percent of the supervisory positions on the modernization project site; and

(F) has the existing technical and financial resources in the United States to perform the contract; and

(2) the term "qualified United States joint venture person" means a joint venture in which a United States person or persons own at least 51 percent of the assets of the joint venture.

(e) Effective Date.—The provisions of this section shall apply to any project with respect to which the Request For Proposals (commonly referred to as "RFP") or the Invitation For Bids (commonly referred to as "IFB") was issued after December 28, 1986.

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c. United States Information Agency Authorization Act, Fiscal Years 1986 and 1987

Partial text of Public Law 99-93 [H.R. 2068], 99 Stat. 405, approved August 16, 1985

AN ACT To authorize appropriations for fiscal years 1986 and 1987 for the Department of State, the United States Information Agency, the Board for International Broadcasting, and for other purposes.

NOTE.—Sections of this Act amend State Department, USIA, and other foreign affairs legislation and are incorporated in the appropriate acts.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—DEPARTMENT OF STATE

* * * * * * *

TITLE II—UNITED STATES INFORMATION AGENCY

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

In addition to amounts otherwise available for such purposes, there are authorized to be appropriated for the United States Information Agency $887,900,000 for the fiscal year 1986 [1] and $887,900,000 for the fiscal year 1987 [2] to carry out international information, educational, cultural, and exchange programs under the United States Information and Educational Exchange Act of 1948, the Mutual Educational and Cultural Exchange Act of 1961, Reorganization Plan Number 2 of 1977, the Radio Broadcasting to Cuba Act, and other purposes authorized by law. Amounts appropriated under this section are authorized to remain available until expended.

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[1] The Department of State and Related Agencies Appropriation Act, 1986 (Title V of Public Law 99-180, 99 Stat. 1167), included for fiscal year 1986 the following appropriations: salaries and expenses—$571,000,000; educational and cultural exchange programs—$128,106,000 (and $9,894,000 for private sector exchange programs); acquisition and construction of radio facilities—$114,000,000; radio broadcasting to Cuba—$10,700,000; Center for Cultural and Technical Interchange Between East and West—$20,750,000; National Endowment for Democracy—$18,000,000.

[2] Title V of sec. 101(l) of the Continuing Appropriations Act, 1987 (Public Law 99-591, 100 Stat. 3341), included for fiscal year 1987 the following appropriations: salaries and expenses—$570,000,000; educational and cultural exchange programs—$135,270,000 (and $9,730,000 for private sector exchange programs); acquisition and construction of radio facilities—$46,000,000; radio broadcasting to Cuba—$11,250,000; Center for Cultural Interchange between East and West—$20,000,000; National Endowment for Democracy—$15,000,000.

SEC. 202. MODERNIZATION OF VOICE OF AMERICA.

Of the authorizations of appropriations contained in section 201, authorizations of $136,594,000 for the fiscal year 1986 and $136,594,000 for the fiscal year 1987, which shall be available for essential modernization of the facilities and operations of the Voice of America, shall remain available until the appropriations are made and when those amounts are appropriated they are authorized to remain available until expended.

SEC. 203. RADIO BROADCASTING TO CUBA.

Of the amounts authorized to be appropriated by section 201, not less than $11,500,000 for the fiscal year 1986 and not less than $11,700,000 for the fiscal year 1987 shall be available for the implementation of the Radio Broadcasting to Cuba Act.

SEC. 204. FUNDS FOR EDUCATIONAL AND CULTURAL EXCHANGES.

Of the amounts authorized to be appropriated by section 201—

(1) not less than $128,899,500 for the fiscal year 1986 and not less than $141,996,000 for the fiscal year 1987 shall be available only for grants for the Fulbright Academic Exchange Programs and the International Visitor Program;

(2) not less than $4,891,500 for the fiscal year 1986 and not less than $5,479,000 for the fiscal year 1987 shall be available only for grants for the Humphrey Fellowship Program; and

(3) $45,400,000 for the fiscal year 1986 and $45,100,000 for the fiscal year 1987 shall be allocated to fund grants and exchanges to Latin America and the Caribbean, and the amounts utilized for programs in Central America shall be obligated in a manner consistent with the recommendations of the National Bipartisan Commission on Central America.

SEC. 205. FUNDS FOR WORLDWIDE BOOK PROGRAM INITIATIVE.

Of the amounts authorized to be appropriated by section 201, not less than $7,500,000 for each of the fiscal years 1986 and 1987 shall be available only for the worldwide book program initiative.

SEC. 206. FUNDS FOR EXCHANGE ACTIVITIES ASSOCIATED WITH THE 1987 PAN AMERICAN GAMES.

Of the amounts authorized to be appropriated for the fiscal years 1986 and 1987 by section 201, not less than $1,500,000 for each such fiscal year shall be available only to the Indiana Sports Corporation for exchanges of persons and other exchange-related activities associated with the 1987 Pan American Games to be held in Indianapolis, Indiana.

SEC. 207. FUNDS FOR INTERNATIONAL GAMES FOR THE HANDICAPPED.

Of the amounts authorized to be appropriated for fiscal year 1986 by section 201, $3,000,000 shall be available only to reimburse expenses for exchange of athletes, coaches, and officials participating in international games for the handicapped which are conducted in the United States.

SEC. 208. BAN ON DOMESTIC ACTIVITIES BY THE USIA.

Except as provided in section 501 of the United States Information and Education Exchange Act of 1948 (22 U.S.C. 1461) and this section, no funds authorized to be appropriated to the United States Information Agency shall be used to influence public opinion in the United States, and no program material prepared by the United States Information Agency shall be distributed within the United States. This section shall not apply to programs carried out pursuant to the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2451 et seq.).

SEC. 209. PRIVATE SECTOR FUNDING FOR USIA'S PRIVATE SECTOR PROGRAM.

(a) LIMITATION ON GRANTS.—No grant shall be made to any organization through the Private Sector Program of the United States Information Agency unless—

(1) costs equal to at least 15 percent of grants from the United States Information Agency in fiscal year 1986, and

(2) costs equal to at least 25 percent of grants from the United States Information Agency in fiscal year 1987, for that organization's exchange and exchange-related programs are provided for from non-United States Government sources.

(b) EXEMPTION FOR CERTAIN ORGANIZATIONS.—Subsection (a) shall not apply to grantee organizations which have been in existence for less than one year.

(c) PROHIBITION ON FUNDING 1985 INTERNATIONAL YOUTH YEAR ACTIVITIES.—No funds from fiscal year 1986 appropriations for the United States Information Agency or for any other United States Government agency shall be available for grants related to 1985 International Youth Year activities.

SEC. 210.[3] * * *

SEC. 211. PROMOTING DEMOCRACY AND AN END TO THE APARTHEID POLICIES IN SOUTH AFRICA.

(a) PURPOSE.—It is the purpose of this section to encourage funding for programs that would promote democracy and seek to end the apartheid policies in South Africa, and that would be in addition to the programs for South Africa funded under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 et seq.).

(b) USIA GRANTS TO THE NATIONAL ENDOWMENT FOR DEMOCRACY.—It is the sense of the Congress that the Director of the United States Information Agency should make a grant of up to $500,000 for each of the fiscal years 1986 and 1987 to the National Endowment for Democracy (in addition to grants otherwise made by the Director to the Endowment) for use by the Endowment in providing financing for programs that are designated to promote democracy and that seek to end the apartheid policies in South Africa.

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(c) PROGRAMS DESIGNED TO END THE APARTHEID POLICIES.—The programs funded pursuant to this section shall be programs of support for actions of non-white led community organizations in South Africa to terminate apartheid policies such as—

(1) removal of black populations from certain geographic areas on account of race or ethnic origin;

(2) denationalization of blacks, including any distinctions between the South African citizenships of blacks and whites;

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[3] Sec. 210 amended the National Endowment for Democracy Act (22 U.S.C. 4411 et seq.).

(3) residence restrictions based on race or ethnic origin;

(4) restrictions on the rights of blacks to seek employment in South Africa and live wherever they find employment in South Africa; and

(5) restrictions which make it impossible for black employees and their families to be housed in family accommodations near their place of employment.

(d) ELIGIBLE ORGANIZATIONS IN SOUTH AFRICA.—Any program funded in accordance with this section, which is to be carried out within South Africa, should be a program which in both its character and organizational sponsorship in South Africa clearly reflects the aspirations of the indigenous majority of South Africans for the establishment of democratic institutions and for an end to the apartheid system of separate development, and should not be a program which is financed or controlled by the Government of South Africa.

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d. United States Information Agency Authorization Act, Fiscal Years 1984 and 1985

Partial text of Public Law 98-164 [H.R. 2915], 97 Stat. 1017, approved November 22, 1983

AN ACT To authorize appropriations for fiscal years 1984 and 1985 for the Department of State, the United States Information Agency, the Board for International Broadcasting, the Inter-American Foundation, and the Asia Foundation, to establish the National Endowment for Democracy, and for other purposes.

> NOTE.—Sections of this Act amend State Department, USIA, and other foreign affairs legislation and are incorporated in the appropriate acts.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—DEPARTMENT OF STATE

* * * * * * *

TITLE II—UNITED STATES INFORMATION AGENCY

SHORT TITLE

Sec. 201. This title may be cited as the "United States Information Agency Authorization Act, Fiscal Years 1984 and 1985".

AUTHORIZATION OF APPROPRIATIONS

Sec. 202. In addition to the amounts otherwise authorized for such purposes, there are authorized to be appropriated for the United States Information Agency $642,348,000 for the fiscal year 1984 [1] and $806,239,000 for the fiscal year 1985 [2] to carry out inter-

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[1] The Department of State and Related Agencies Appropriations Act, 1984 (title III of Public Law 98-166, 97 Stat. 1097) included $624,565,000 for fiscal year 1984, itemized as follows: salaries and expenses—$471,853,000; educational and cultural exchange programs—$92,900,000; salaries and expenses (special foreign currency program)—$9,800,000; Center for Cultural and Technical Interchange between East and West—$18,362,000; and acquisition and construction of radio facilities—$31,000,000.

[2] The Department of State and Related Agencies Appropriations Act, 1985 (title III of Public Law 98-411, 98 Stat. 1564) included $768,856,000 for fiscal year 1985, itemized as follows: salaries and expenses—$545,856,000; salaries and expenses (special foreign currency program)—$8,000,000; educational and cultural exchange programs—$130,000,000; acquisition and construction of radio facilities—$85,000,000. The Supplemental Appropriations Act, 1985 (title I of Public Law 99-88, 99 Stat. 293), for fiscal year 1985, provided as follows:

"EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

"Of the funds made available under this head in Public Law 98-411, $3,800,000 for the pilot Central American Undergraduate Scholarship program shall remain available until September

Continued

national information, educational, cultural, and exchange programs under the United States Information and Educational Exchange Act of 1948, the Mutual Educational and Cultural Exchange Act of 1961, and Reorganization Plan Numbered 2 of 1977, and other purposes authorized by law.

IMPROVEMENT OF VOA FACILITIES AND OPERATIONS

Sec. 203. Of the authorizations of appropriations contained in section 202—

(1) authorizations of $47,959,000 for the fiscal year 1984, which shall be available for the acquisition and construction of radio facilities,[1] and

(2) authorizations of $164,800,000 for the fiscal year 1985, which shall be available for essential modernization of the facilities and operations of the Voice of America,[2]

shall remain available until the appropriations are made and when those amounts are appropriated they are authorized to remain available until expended.

INTERNAL AUDITORS

Sec. 204. Of the amounts authorized to be appropriated by section 202, not less than $600,000 for each of the fiscal years 1984 and 1985 shall be available only for the employment of twelve professional internal auditors for the United States Information Agency in excess of any internal auditors employed by the Agency during fiscal year 1983.

FUNDS FOR THE NATIONAL ENDOWMENT FOR DEMOCRACY

Sec. 205.[3] Of the amounts appropriated for the United States Information Agency for each of the fiscal years 1984 and 1985, not

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30, 1986; and for an additional amount under this head, $9,000,000, to remain available until September 30, 1986.

"For an additional amount under this head to promote the development of an independent media service by the Afghan people and to provide for the training of Afghans in media and media-related fields, $500,000, to remain available until September 30, 1986: *Provided,* That the Director, with the Secretary of State, shall report to the appropriate committees of Congress on the obligation of these funds 60 days from the date of enactment of this Act.

"For the Private Sector Exchange Programs, an additional $500,000 is provided, to remain available until expended, for the model Chinese-American Development Student Exchange Program at Tufts University as authorized by the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2451 et seq.).

"ACQUISITION AND CONSTRUCTION OF RADIO FACILITIES

"For an additional amount for 'Acquisition and Construction of Radio Facilities', $6,648,000, to remain available until expended.

"UNITED STATES INFORMATION AGENCY

"SALARIES AND EXPENSES

"(RESCISSION)

"Of available funds under this head, $2,879,000 are rescinded."

[3] The Department of State and Related Agency Appropriations Act, 1984 (title III of Public Law 98-166, 97 Stat. 1098) included $18,000,000 for the National Endowment for Democracy during fiscal year 1984. The Department of State and Related Agencies Appropriations Act, 1985 (title III of Public Law 98-411, 98 Stat. 1569) included $18,500,000 for the National Endowment for Democracy during fiscal year 1985. See also page 690 for the text of the National Endowment for Democracy Act.

less than $31,300,000 shall be available only for a grant, in accordance with title V of this Act, to the National Endowment for Democracy for use in carrying out its purposes.

EDUCATIONAL AND CULTURAL EXCHANGES

Sec. 206. (a) Of the funds authorized to be appropriated for the United States Information Agency for the fiscal year 1984, not less than $100,500,000 shall be available only for grants for the Fulbright Academic Exchange Programs and the International Visitor Program, not less than $3,729,000 shall be available only for grants for the Humphrey Fellowship Program, and not more than $7,100,000 shall be available for the Private Sector Program.[4] Funds authorized to be appropriated by this title for the Private Sector Program shall be available only for grants to not-for-profit cultural, educational, or exchange-of-persons organizations. Of the funds authorized to be appropriated for the United States Information Agency for fiscal year 1984, $3,000,000 shall be available only for enhancements of United States libraries overseas and programs providing support services to foreign students studying, or intending to study, in the United States.

(b) Of the funds authorized to be appropriated for the United States Information Agency for the fiscal year 1985, not less than $123,100,000 shall be available only for grants for the Fulbright Academic Exchange Programs and the International Visitor Program, and not less than $4,435,000 shall be available only for grants for the Humphrey Fellowship Program.[5]

PRIVATE SECTOR PROGRAM

Sec. 207.[6] (a) No funds authorized to be appropriated for the Private Sector Program shall be used to pay for foreign travel by any United States citizen who, in the five years preceding the date of the proposed foreign travel, made two or more trips financed in whole or in substantial part by grants from the Private Sector Program. This limitation shall not apply to escort interpreters accompanying delegations, to artists accompanying exhibitions, to persons engaging in theatrical or musical performances, or to the full-time staff of the grantee organization. In addition, the Director of the Bureau of Educational and Cultural Affairs may waive this limitation in exceptional cases if he determines that foreign travel is essential to the successful completion of the grant program and so certifies in writing to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate at least 15 days prior to the commencement of the proposed foreign travel.

(b) Not later than January 31 of each year, the Director of the Bureau of Educational and Cultural Affairs shall submit to the

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[4] The Department of State and Related Agencies Appropriations Act, 1984 (title III of Public Law 98–166, 97 Stat. 1097) included $92,900,000 for educational and cultural exchange programs and $7,100,000 for the Private Sector Exchange Program during fiscal year 1984.

[5] The Department of State and Related Agencies Appropriations Act, 1985 (title III of Public Law 98–411, 98 Stat. 1569) included $121,352,000 for educational and cultural exchange programs and $8,648,000 for the Private Sector Exchange Program during fiscal year 1985.

[6] 22 U.S.C. 2460 note.

Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate a report listing all individuals, with their organization, who in the preceding 5 years made two or more trips involving foreign travel financed in whole or substantial part by grants from the Private Sector Program.

INTERNATIONAL YOUTH YEAR

Sec. 208. (a) From the funds allocated to the Private Sector Program, the United States Information Agency may make grants to youth and youth service organizations in support of activities to promote participation by American young people in the activities of International Youth Year. Activities to be supported shall involve exchange-of-persons. Grants under this subsection shall be subject to all applicable guidelines and notification requirements, except that organizations receiving such grants shall not be subject to the funding limitation on newer organizations which is contained in the "ECA Grant Guidelines" which were submitted to the Congress on May 4, 1983 (see pages 42–44 of the report of the Committee on Foreign Relations on S. 1342 (Senate report numbered 98–143) and pages 66–68 of the report of the Committee on Foreign Affairs to accompany H.R. 2915 (House of Representatives report numbered 98–130)).

(b) The Secretary of State shall ensure that any organization designated by the United States Government, or any agency thereof, as the official United States commission or committee for United States participation in International Youth Year meets the following criteria: (1) the membership of such organization is open to all major youth and youth service organizations; (2) the charter of such organization provides that the organization will have full financial responsibility for its own assets, receipts, and expenditures; and (3) the composition of the Governing Board shall be elected from the constituent youth and youth service organizations, and in such an election the size of the membership of the constituent youth and youth service organizations shall be an important factor. Clause (3) shall not be construed as requiring any particular system of proportional representation in the election of the Governing Board.

(c) No funds authorized to be appropriated by this Act shall be made available to any organization to coordinate or plan for United States participation in International Youth Year if that organization does not meet the criteria specified in subsection (b).

PROHIBITION ON LOBBYING WITH UNITED STATES FUNDS BY USIA GRANTEE ORGANIZATIONS

Sec. 209. None of the funds authorized to be appropriated by this title shall be used by any grantee organization of the United States Information Agency for lobbying or propaganda which is directed at influencing public policy decisions of the Government of the United States or any State or locality thereof. This section shall not be construed so as to abridge the right of any grantee organization to exercise the same freedom of speech as is protected by the first article of amendment of the United States Constitution, so long as such organization does not use funds provided under this title in exercising such right.

FUNDS FOR OFFICIAL RECEPTIONS AND ENTERTAINMENT EXPENSES

Sec. 210. Notwithstanding any other provision of law, not more than $20,000 of the funds authorized to be appropriated to the United States Information Agency for the fiscal year 1984 or for the fiscal year 1985 shall be available for domestic representation or entertainment expenses, including official receptions.

FUNDS FOR UNITED STATES-GERMAN TEENAGE EXCHANGE

Sec. 211. In addition to amounts otherwise authorized to be appropriated for the United States Information Agency, there are authorized to be appropriated $2,500,000 for the fiscal year 1984 and $2,500,000 for the fiscal year 1985 to carry out a United States-German teenage exchange sponsored by the Members of the United States Congress and the West German Bundestag.

FUNDING FOR UNITED STATES PARTICIPATION IN THE TSUKUBA, JAPAN EXPOSITION 1985

Sec. 212. In addition to amounts otherwise made available for such purpose, there are authorized to be appropriated to the United States Information Agency, without fiscal year limitation, $4,000,000 for expenses in connection with United States participation in the Tsukuba, Japan Exposition 1985.

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e. United States Information Agency Authorization Act, Fiscal Years 1982 and 1983

Partial text of Public Law 97-241 [S. 1193], 96 Stat. 273 at 291, approved August 24, 1982

AN ACT To authorize appropriations for fiscal years 1982 and 1983 for the Department of State, the International Communication Agency, and the Board for International Broadcasting, and for other purposes.

> NOTE.—Sections in this Act amend State Department, USIA, and other foreign affairs legislation and are incorporated in the appropriate acts.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—DEPARTMENT OF STATE

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TITLE II—FOREIGN MISSIONS

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TITLE III—UNITED STATES INFORMATION AGENCY

SHORT TITLE

Sec. 301. This title may be cited as the "United States Information Agency Authorization Act, Fiscal Years 1982 and 1983".

AUTHORIZATIONS OF APPROPRIATIONS

Sec. 302. There are authorized to be appropriated for the United States Information Agency, as so redesignated by section 303 of this Act, $494,034,000 for the fiscal year 1982 [1] and $559,000,000 for the fiscal year 1983 [2] to carry out international communication,

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[1] The Continuing Appropriations Act, 1982 (Public Law 97-92, 95 Stat. 1183) and H.R. 4169, as passed by the House and made applicable to Public Law 97-92, included $488,886,000 for fiscal year 1982, itemized as follows: salaries and expenses—$443,286,000; salaries and expenses (special foreign currency program)—$9,800,000; Center for Cultural and Technical Interchange between East and West—$16,800,000; and acquisition and construction of radio facilities—$19,000,000.

[2] Further Continuing Appropriations Act, 1983 (Public Law 97-377, 96 Stat. 1830 at 1877) and S. 2956, as reported in the Senate on September 24, 1982, and made part of Public Law 97-377, appropriated $545,449,000 for fiscal year 1983 itemized in the following manner: salaries and expenses—$492,122,000, of which $84,292,000 shall be for certain USIA exchange programs; salaries and expenses (special foreign currency program)—$10,327,000; Center for Cultural and Tech-

Continued

educational, cultural, and exchange programs under the United States Information and Educational Exchange Act of 1948, the Mutual Educational and Cultural Exchange Act of 1961, and Reorganization Plan Numbered 2 of 1977, and other purposes authorized by law.

REDESIGNATION OF THE INTERNATIONAL COMMUNICATION AGENCY AS THE UNITED STATES INFORMATION AGENCY

Sec. 303.[3] (a) The International Communication Agency, established by Reorganization Plan Numbered 2 of 1977, is hereby redesignated the United States Information Agency. The Director of the International Communication Agency or any other official of the International Communication Agency is hereby redesignated the Director or other official, as appropriate, of the United States Information Agency.

(b) Any reference in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding to the International Communication Agency or the Director or other official of the International Communication Agency shall be deemed to refer respectively to the United States Information Agency or the Director or other official of the United States Information Agency, as so redesignated by subsection (a).

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INTERNATIONAL EXCHANGES AND NATIONAL SECURITY

Sec. 305. (a) The Congress finds that—

(1) United States Government sponsorship of international exchange-of-persons activities has, during the postwar era, contributed significantly to United States national security interests;

(2) during the 1970's, while United States programs declined dramatically, Soviet exchange-of-persons activities increased steadily in pace with the Soviet military buildup;

(3) as a consequence of these two trends, Soviet exchange-of-persons programs now far exceed those sponsored by the United States Government and thereby provide the Soviet Union an important means of extending its worldwide influence;

(4) the importance of competing effectively in this area is reflected in the efforts of major United States allies, whose pro-

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nical Interchange Between East and West—$18,000,000; and acquisition of radio facilities—$25,000,000.

In addition to funds contained in Public Law 97-377 for the United States Information Agency during fiscal year 1983, the Supplemental Appropriations Act, 1983 (Public Law 98-63, 97 Stat. 307 provided the following:

"UNITED STATES INFORMATION AGENCY

"SALARIES AND EXPENSES

"For an additional amount for 'Salaries and expenses', $9,000,000, and, in addition there shall be available the sum of $4,000,000.

"ACQUISITION AND CONSTRUCTION OF RADIO FACILITIES

"For an additional amount for 'Acquisition and construction of radio facilities', $10,800,000."

[3] 22 U.S.C. 1461 note.

grams also represent far greater emphasis on exchange-of-persons activities than is demonstrated by the current United States effort; and

(5) with the availability of increased resources, the United States exchange-of-persons program could be greatly strengthened, both qualitatively and quantitatively.

(b) It is therefore the sense of the Congress that—

(1) United States exchange-of-persons activities should be strengthened;

(2) the allocation of resources necessary to accomplish this improvement would constitute a highly cost-effective means of enhancing the United States national security; and

(3) because of the integral and continuing national security role of exchange-of-persons programs, such activities should be accorded a dependable source of long-term funding.

(c)[4] The amount obligated by the United States Information Agency each fiscal year for grants for exchange-of-persons activities shall be increased, through regular annual increases, so that by the fiscal year 1986 the amount obligated for such grants is at least double (in terms of constant dollars) the amount obligated for such grants for the fiscal year 1982.

(d) [4] (1) In furtherance of the purposes of subsection (c), the Congress directs that of the amount appropriated for the United States Information Agency for the fiscal year 1983—

(A) $84,256,000 shall be available only for grants for the Fulbright Academic Exchange Programs and the International Visitor Program; and

(B) $3,248,000 shall be available only for grants for the Humphrey Fellowship Program; and

(C) $8,906,000 shall be available only for grants to private, not-for-profit organizations engaging in exchange-of-persons programs;

subject to paragraphs (2) and (3) of this subsection.

(2) If the amount appropriated for the United States Information Agency for the fiscal year 1983 is less than the amount authorized for the fiscal year 1983, then the amounts specified in subparagraphs (A) through (C) of paragraph (1) shall each be deemed to be reduced to the amount which bears the same ratio to the specified amount as the amount appropriated bears to the amount authorized. For purposes of this paragraph—

(A) the term "amount appropriated" means the amount appropriated under section 302 of this Act (less any rescissions), and does not include amounts appropriated under section 704 of the United States Information and Educational Exchange Act of 1948 (relating to nondiscretionary personnel costs and currency fluctuations) or under any other provision of law; and

(B) the term "amount authorized" means the amount authorized to be appropriated by section 302 of this Act, less an amount equal to any amount which was withheld from appropriation (or was rescinded) in order to reduce the amount available for a particular program or activity.

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[4] 22 U.S.C. 2455 note.

(3) The Director of the United States Information Agency may authorize up to 5 percent of the amount earmarked under subparagraph (A), (B), or (C) of paragraph (1) to be used for a purpose other than the exchange-of-persons activities specified in that subparagraph. Not less than 15 days prior to any such authorization, the Director shall submit to the Committee on Foreign Affairs of the House of Representatives, and to the Committee on Foreign Relations of the Senate, a justification for authorizing the use of earmarked funds for a purpose other than the specified exchange-of-persons activities.

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TITLE IV—BOARD FOR INTERNATIONAL BROADCASTING

SHORT TITLE

Sec. 401. This title may be cited as the "Board for International Broadcasting Authorization Act, Fiscal Years 1982 and 1983".

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RADIO BROADCASTING TO CUBA

Sec. 404. Any program of the United States Government involving radio broadcasts directed principally to Cuba, for which funds are authorized to be appropriated by this Act or any other Act, shall be designated as "Radio Marti".

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f. International Communication Agency Authorization Act, Fiscal Years 1980 and 1981

Partial text of Public Law 96-60 [H.R. 3363], 93 Stat. 395 at 398, approved August 15, 1979

AN ACT To authorize appropriations for fiscal years 1980 and 1981 for the Department of State, the International Communication Agency, and the Board for International Broadcasting.

> NOTE.—Sections in this Act amend State Department, ICA, and other foreign affairs legislation and are incorporated in the appropriate acts.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—DEPARTMENT OF STATE

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TITLE II—INTERNATIONAL COMMUNICATION AGENCY

SHORT TITLE

Sec. 201. This title may be cited as the "International Communication Agency Authorization Act, Fiscal Years 1980 and 1981".

AUTHORIZATIONS OF APPROPRIATIONS

Sec. 202. There are authorized to be appropriated for the International Communication Agency $432,547,000 for the fiscal year 1980 and $465,944,000 for the fiscal year 1981 [1] to carry out international communication, educational, cultural, and exchange programs under the United States Information and Educational Exchange Act of 1948, the Mutual Educational and Cultural Exchange Act of 1961, and Reorganization Plan Numbered 2 of 1977, and other purposes authorized by law.

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[1] The Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1981 (H.R. 7584), which included funds for the ICA, was adopted by Congress on December 3, 1980, but vetoed by the President on December 13, 1980. Appropriations for the ICA during fiscal year 1981 were governed by Public Law 96-536, a continuing resolution providing funds for any Federal agency which had not received funding through an appropriation act. Under the terms of Public Law 96-536, the ICA was funded at levels established in H.R. 7584. H.R. 7584 provided $419,000,000, of which not to exceed $3,746,000 allocated by the ICA to carry out section 102(a)(3) of the Mutual Educational and Cultural Exchange Act shall remain available until expended. "*Provided*, That not to exceed $460,000 may be used for representation abroad."

Sec. 203. (a) * * *

(b) * * *

(c)[2] Section 602(d) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 474) is amended—

(1) by striking out "or" at the end of paragraph (19);

(2) by striking out the period at the end of paragraph (20) and inserting in lieu thereof "; or"; and

(3) by inserting immediately after paragraph (20) the following new paragraph:

"(21) the Director of the International Communication Agency with respect to the furnishing of facilities in foreign countries and reception centers within the United States.".

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EFFECTIVE DATE

Sec. 209. The amendments made by sections 203 and 204 shall take effect on October 1, 1979, and to the extent that they provide new authorities involving the expenditure of appropriated funds, shall apply only with respect to funds appropriated after the date of enactment of this Act.

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[2] The Federal Property and Administrative Services Act of 1946 provided for a uniform procedure for the management and disposal of Government property. Sec. 602(d) of such Act exempted the provisions of the Act from impairing or affecting any authority of 21 specified Government agency heads to perform specific tasks. This amendment added the Director of the ICA to this exemption list.

g. International Communication Agency Authorization for Fiscal Year 1979

Partial text of Public Law 95-426 [H.R. 12598], 92 Stat. 963 at 972, approved October 7, 1978

AN ACT To authorize appropriations for fiscal year 1979 for the Department of State, the International Communication Agency, and the Board for International Broadcasting, to make changes in the laws relating to those agencies, to make changes in the Foreign Service personnel system, to establish policies and responsibilities with respect to science, technology, and American diplomacy, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1. This Act may be cited as the "Foreign Relations Authorization Act, Fiscal Year 1979".

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TITLE II—INTERNATIONAL COMMUNICATION AGENCY

AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1979

Sec. 201. (a) There is authorized to be appropriated for the International Communication Agency for fiscal year 1979 to carry out international communication, educational, cultural, and exchange programs under the United States Information and Educational Exchange Act of 1948, the Mutual Educational and Cultural Exchange Act of 1961, and Reorganization Plan Numbered 2 of 1977, and other purposes authorized by law, $420,577,000, and such additional amounts as may be necessary for increases in salary, pay, retirement, and other employee benefits authorized by law, and for other nondiscretionary costs.

(b) Amounts appropriated under this section are authorized to remain available until expended.

MISSION OF THE INTERNATIONAL COMMUNICATION AGENCY

Sec. 202.[1] The mission of the International Communication Agency shall be to further the national interest by improving

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[1] 22 U.S.C. 1461-1. Sec. 303 of Public Law 97-241 (96 Stat. 291) redesignated the International Communication Agency as the United States Information Agency and stated that any reference to the International Communication Agency in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding, shall be deemed to be a reference to the United States Information Agency. Sec. 303 also stated that references to the Director or other official of the International Communication Agency shall be deemed to refer to the Director or other official of the United States Information Agency.

United States relations with other countries and peoples through the broadest possible sharing of ideas, information, and educational and cultural activities. In carrying out this mission, the International Communication Agency shall, among other activities—

(1) conduct Government-sponsored information, educational, and cultural activities designed—

(A) to provide other peoples with a better understanding of the policies, values, institutions, and culture of the United States; and

(B) within the statutory limits governing domestic activities of the Agency, to enhance understanding on the part of the Government and people of the United States of the history, culture, attitudes, perceptions, and aspirations of others;

(2) encourage private institutions in the United States to develop their own exchange activities, and provide assistance for those exchange activities which are in the broadest national interest;

(3) coordinate international informational, educational, or cultural activities conducted or planned by departments and agencies of the United States Government;

(4) assist in the development of a comprehensive national policy on international communications; and

(5) promote United States participation in international events relevant to the mission of the Agency.

EXPANDED EXCHANGE ACTIVITIES

Sec. 203. The President shall, by a process of gradual expansion during the four-year period beginning October 1, 1979, increase significantly the financial resources expended annually by the International Communication Agency for exchange-of-persons activities. The President shall prepare at an early date a general plan for the accomplishment of this goal and shall adjust that plan annually, as he finds appropriate, in consultation with the Congress.

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FUNCTIONS RELATING TO THE NATIONAL GALLERY OF ART

Sec. 205. The Secretary of State may delegate to the Director of the International Communication Agency, with the consent of the Director, the functions vested in the Secretary by section 2(a) of the joint resolution entitled "Joint Resolution providing for the construction and maintenance of a National Gallery of Art", approved March 24, 1937 (20 U.S.C. 72(a)).

FUNCTIONS RELATING TO THE WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

Sec. 206. (a) Subsection (b) of section 3 of the Woodrow Wilson Memorial Act of 1968 (20 U.S.C. 80f(b)) is amended—

(1) in the text preceding paragraph (1) by striking out "fifteen" and inserting in lieu thereof "sixteen";

(2) by redesignating paragraphs (2) through (8) as paragraphs (3) through (9), respectively; and

(3) by striking out paragraph (1) and inserting in lieu thereof the following new paragraphs:

"(1) the Secretary of State;

"(2) the Director of the International Communication Agency;".

(b)(1) Subsection (c) of that section (20 U.S.C. 80f(c)) is amended by striking out "(7)" and inserting in lieu thereof "(8)".

(2) Subsection (d) of that section (20 U.S.C. 80f(d)) is amended by striking out "(8)" and inserting in lieu thereof "(9)".

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h. United States Information Agency Authorization for Fiscal Year 1978

Partial text of Public Law 95-105 [H.R. 6689], 91 Stat. 844 at 849, approved August 17, 1977

AN ACT To authorize fiscal year 1978 appropriations for the Department of State, the United States Information Agency, and the Board for International Broadcasting, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1. This Act may be cited as the "Foreign Relations Authorization Act, Fiscal Year 1978".

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TITLE II—UNITED STATES INFORMATION AGENCY

AUTHORIZATION OF APPROPRIATIONS

Sec. 201. (a) There are authorized to be appropriated for the United States Information Agency for fiscal year 1978, to carry out international informational activities and programs under the United States Information and Educational Exchange Act of 1948, the Mutual Educational and Cultural Exchange Act of 1961, and Reorganization Plan Numbered 8 of 1953, and other purposes authorized by law, the following amounts:

(1) For "Salaries and expenses" and "Salary and expenses (special foreign currency program)", $269,286,000.

(2) For "Special international exhibitions", $4,360,000.

(3) For "Acquisition and construction of radio facilities", $19,872,000.

(4) For increases in salary, pay, retirement, and other employee benefits authorized by law, and for other nondiscretionary costs, such additional amounts as may be necessary.

(b) Amounts appropriated under this section are authorized to remain available until expended.

TRANSFER AUTHORITY

Sec. 202. Funds authorized to be appropriated for fiscal year 1978 by any paragraph of section 201(a) (other than paragraph (4)) may be appropriated for such fiscal year for a purpose for which appropriations are authorized by any other paragraph of such section (other than paragraph (4)), except that the total amount appropriated for a purpose described in any paragraph of section 201(a) (other than paragraph (4)) may not exceed the amount specifically authorized for such purpose by section 201(a) by more than 10 per centum.

REPLACEMENT OF FACILITIES IN SOWETO, REPUBLIC OF SOUTH AFRICA

Sec. 203. The Director of the United States Information Agency [1] shall prepare and submit to the Secretary of State plans for the replacement under the Foreign Service Buildings Act, 1926, of the Agency's facilities in Soweto, Republic of South Africa.

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USE BY THE JOHN FITZGERALD KENNEDY LIBRARY OF CERTAIN FILMS PREPARED BY THE UNITED STATES INFORMATION AGENCY

Sec. 205. Notwithstanding the second sentence of section 501 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461), the Director of the United States Information Agency [1] shall, upon receipt of reimbursement for any expenses involved, make available to the Administrator of General Services for deposit or use at the John Fitzgerald Kennedy Library in Boston, Massachusetts, copies of the following films and trims and outs:

"President Kennedy Addresses Canadian Parliament".
"United in Progress".
"America Welcomes Prime Minister Baldewa (Nigeria)".
"U.S. Welcomes Crown Prince Hassan (Libya)".
"America Welcomes Ayub Khan".
"America Welcomes President Aboud (Sudan)".
"Firm Alliance (Iran)".
"American Journey (Ivory Coast)".
"A Welcome Visitor (Nehru)".
"Haile Selassie (Return Trip)".
"His Majesty, King Hassan (Morocco) Visits U.S.".
"Salute to an African Leader (Bourguiba-Tunisia)".
"Inauguration of John F. Kennedy".
"The Task Begun".
"Progress Through Freedom".
"Forging the Alliance".
"Prime Minister of Somali Republic Visits U.S.".
"President Olympio of Togo Visits U.S.".
"Five Cities in June".

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[1] Pursuant to sec. 7(a)(1) of Reorganization Plan No. 2 of 1977, all functions vested in the President, Secretary of State, the Department of State, the Director of the United States Information Agency, and the United States Information Agency by this Act were transferred to the Director of the International Communication Agency. The codified version of this Act has been changed to reflect this transfer of authority.

However, sec. 303 of Public Law 97-241 (96 Stat. 291) redesignated the International Communication Agency as the United States Information Agency and stated that any reference to the International Communication Agency in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding, shall be deemed to be a reference to the United States Information Agency. Sec. 303 also stated that references to the Director or other official of the International Communication Agency shall be deemed to refer to the Director or other official of the United States Information Agency.

“From Uganda to America”.
“President Ahidjo Visits U.S.”.
“Mrs. Kennedy’s Asian Journey”.
“Invitation to India”.
“Invitation to Pakistan”.

i. United States Information Agency Authorization for Fiscal Year 1977

Partial text of Public Law 94-350 [S. 3168], 90 Stat. 823, approved July 12, 1976

AN ACT To authorize fiscal year 1977 appropriations for the Department of State, the United States Information Agency, and the Board for International Broadcasting, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Foreign Relations Authorization Act, Fiscal Year 1977".

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TITLE II—UNITED STATES INFORMATION AGENCY

AUTHORIZATION OF APPROPRIATIONS

Sec. 201. (a) There are authorized to be appropriated for the United States Information Agency for fiscal year 1977, to carry out international informational activities and programs under the United States Information and Educational Exchange Act of 1948, the Mutual Educational and Cultural Exchange Act of 1961 and Reorganization Plan Numbered 8 of 1953, and other purposes authorized by law, the following amounts:

(1) For "Salaries and Expenses" and "Salary and Expenses (special foreign currency program)", $255,925,000.

(2) For "Special International Exhibitions", $4,841,000.

(3) For "Acquisition and Construction of Radio Facilities", $2,142,000.

(4) Such additional amounts as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, or other nondiscretionary costs.

(b) Amounts appropriated under this section are authorized to remain available until expended.

TRANSFER AUTHORITY

Sec. 202. Funds authorized to be appropriated for fiscal year 1977 by any paragraph of section 201(a) (other than paragraph (4)) may be appropriated for such fiscal year for a purpose for which appropriations are authorized by any other paragraph of such section (other than paragraph (4)), except that the total amount appropriated for a purpose described in any paragraph of section 201(a) (other than paragraph (4)) may not exceed the amount specifically authorized for such purpose by section 201(a) by more than 10 per centum.

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BICENTENNIAL DISTRIBUTION OF CERTAIN ITEMS PREPARED BY THE UNITED STATES INFORMATION AGENCY

Sec. 205. [1] * * *

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[1] The titles of films and related items authorized for distribution within the United States are listed on page 601.

j. USIA Film: "Summer Fever"

Partial text of Public Law 93-168 [S. 2681], 87 Stat. 688, approved November 29, 1973

An Act To authorize appropriations for the United States Information Agency.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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Sec. 4. The United States Information Agency shall, upon request by Little League Baseball, Incorporated, authorize the purchase by such corporation of copies of the film "Summer Fever", produced by such agency in 1972 depicting events in Little League Baseball in the United States Information and Educational Exchange Act of 1948. Little League Baseball, Incorporated, shall have exclusive rights to distribute such film for viewing within the United States in furtherance of the object and purposes of such corporation as set forth in section 3 of the Act entitled "An Act to incorporate the Little League Baseball, Incorporated", approved July 16, 1964 (78 Stat. 325).

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k. Release of USIA Materials to Museums

Public Law 99-475 [H.R. 5522], 100 Stat. 1217, approved October 16, 1986

AN ACT To authorize the release to museums in the United States of certain objects owned by the United States Information Agency.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RELEASE OF CERTAIN OBJECTS OWNED BY USIA.

Notwithstanding section 208 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (22 U.S.C. 1461-1a), and the second sentence of section 501 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461), the Director of the United States Information Agency may release to any museum located in the United States the objects described in section 2 if that museum pays all costs associated with the transfer of such objects to that museum (as determined by the Director).

SEC. 2. OBJECTS SUBJECT TO RELEASE.

The objects referred to in section 1 are those objects displayed at the United States Pavilion at the 86 Expo in Vancouver, British Columbia, Canada, which are owned by the United States Information Agency but (as determined by the Director of the United States Information Agency) not committed by it for other purposes.

l. United States Information Agency Appropriations, 1989

Partial text of Public Law 100-459 [Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, 1989, H.R. 4782], 102 Stat. 2186, approved October 1, 1988

AN ACT Making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1989, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1989, and for other purposes, namely:

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TITLE V—RELATED AGENCIES

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United States Information Agency

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary to enable the United States Information Agency, as authorized by Reorganization Plan No. 2 of 1977, the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.), and the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1431 et seq.), to carry out international communication, educational and cultural activities; and to carry out related activities authorized by law, including employment, without regard to civil service and classification laws, of persons on a temporary basis (not to exceed $270,000, of this appropriation), as authorized by 22 U.S.C. 1471, expenses authorized by the Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.), living quarters as authorized by 5 U.S.C. 5912, and allowances as authorized by 5 U.S.C. 5921-5928 and 22 U.S.C. 287e-1; and entertainment, including official receptions, within the United States, not to exceed $20,000 as authorized by 22 U.S.C. 1474(3); $620,347,000, none of which shall be restricted from use for the purposes appropriated herein and of which $35,500,000 shall be available for the Television and Film Service: *Provided,* That not to exceed $1,132,000 may be used for representation abroad as authorized by 22 U.S.C. 1452 and 4085: *Provided further,* That not to exceed $9,546,300 of the amounts allocated by the United States Information Agency to carry out section 102(a)(3) of the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2452(a)(3)), shall remain available until expended: *Provided further,* That not to exceed $500,000 shall remain available until expended as authorized by 22 U.S.C. 1477(b), for expenses (including those authorized by the Foreign Service Act of 1980) and equipment necessary for maintenance and operation of such data processing and administrative services as authorized by 31 U.S.C. 1535–1536: *Provided further,* That not to exceed $4,650,000 may be credited to this appropriation from fees or other payments received from or in connection with English teaching, library, motion picture, and television programs as authorized by section 810 of the United States Information and Educational Exchange Act of 1948, as amended: *Provided further,* That the funds appropriated by this paragraph shall be available, notwithstanding section 201(2) and 301(a)(6) of Public Law 100–204 and notwithstanding section 701 of the United States Information and Educational Exchange Act of 1948, as amended: *Provided further,* That the funds appropriated in this paragraph shall be available as authorized by Reorganization Plan No. 2 of 1977 (91 Stat. 1636).

EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

For expenses of Fulbright, International Visitor, Humphrey Fellowship, Private Sector, and Congress-Bundestag Exchange Programs, as authorized by the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2451 et seq.), Reorganization Plan No. 2 of 1977 (91 Stat. 1636) $150,040,000, of which $9,290,000 is for Private Sector programs including up to $1,500,000, to remain available until expended, for the Eisenhower Exchange Fellowship Program.

RADIO CONSTRUCTION

For an additional amount for the purchase, rent, construction, and improvement of facilities for radio transmission and reception and purchase and installation of necessary equipment for radio transmission and reception as authorized by 22 U.S.C. 1471, $65,000,000, to remain available until expended as authorized by 22 U.S.C. 1477b(a): *Provided,* That not to exceed $7,500,000 of these funds may be available for the purchase, rent, construction, improvement and equipping of facilities for an startup operations including a test of television broadcasting to Cuba: *Provided further,* That in conducting such startup operations the United States Information Agency shall use a tethered aerostat operated and located at Cudjoe Key Air Force Base in Key West, Florida, if feasible and subject to reimbursement, for both the United States Customs Service's drug interdiction efforts and the United States Information Agency's test of television broadcasting to Cuba: *Provided further,* That the Department of Defense shall provide the necessary military support required to support this effort to the maximum extent possible: *Provided further,* That all such television broadcasting activities shall be conducted for the same purposes and, to the extent feasible, under the same conditions, direction and controls as the radio broadcasting activities authorized by the radio Broadcasting to Cuba Act: *Provided further,* That notwithstanding the preceding proviso, section 7 of the Radio Broadcasting to Cuba Act shall not apply to television broadcasting station licensees.

RADIO BROADCASTING TO CUBA

For an additional amount, necessary to enable the United States Information Agency to carry out the Radio Broadcasting to Cuba Act (providing for the Radio Marti program or Cuba Service of the Voice of America), including the purchase, rent, construction, and improvement of facilities for radio transmission and reception and purchase and installation of necessary equipment for radio transmission and reception as authorized by 22 U.S.C. 1471, $11,175,000.

EAST-WEST CENTER

To enable the Director of the United States Information Agency to provide for carrying out the provisions of the Center for Cultural and Technical Interchange Between East and West Act of 1960, by grant to any appropriate recipient in the State of Hawaii, $20,000,000: *Provided,* That none of the funds appropriated herein shall be used to pay any salary, or to enter into any contract providing for the payment thereof, in excess of the rate authorized for GS–18 of the Classification Act of 1949, as amended, exclusive of any cap on such rate.

NATIONAL ENDOWMENT FOR DEMOCRACY

For grants made by the United States Information Agency to the National Endowment for Democracy as authorized by the National Endowment for Democracy Act, $15,800,000.

TITLE VI—GENERAL PROVISIONS

SEC. 601. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 602. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 603. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 604. If any provision of this Act or the application of such provision to any person or circumstances shall be held invalid, the remainder of the Act and the application of such provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

* * * * * * *

SEC. 606. (a) None of the funds provided under this Act shall be available for obligation or expenditure through a reprogramming of funds which: (1) creates new programs; (2) eliminates a program, project, or activity; (3) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted; (4) relocates an office or employees; (5) reorganizes offices, programs or activities; or (6) contracts out or privatizes any functions or activities presently performed by Federal employees;

unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

(b) None of the funds provided under this Act shall be available for obligation or expenditure for activities, programs, or projects through a reprogramming of funds in excess of $250,000 or 10 per centum, whichever is less, that: (1) augments existing programs, projects, or activities: (2) reduces by 10 per centum funding for any existing program, project, or activity, or numbers of personnel by 10 per centum as approved by Congress; or (3) results from any general savings from a reduction in personnel which would result in a change in existing programs, activities, or projects as approved by Congress, unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

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m. Miscellaneous International Affairs Authorizations Act of 1988

Title III of S. 2757, enacted by reference in Public Law 100–461, 102 Stat. 2268, approved October 1, 1988

TITLE III—AU PAIR PROVISION

SEC. 301. AU PAIR PROVISION

(a) Sense of Congress.—It is the sense of Congress that the terms and conditions (including, but not limited to, those relating to educational requirements and permissible hours of child care) previously authorized by the United States Information Agency to implement Exchange Visitor Program Nos. P–3–5214T and P–3–5238T are in keeping with the goals and objectives of the Fulbright-Hayes Act (Mutual Educational and Cultural Exchange Act of 1961, 22 U.S.C. 2451 et seq.).

(b) Prohibition on Certain Use of Funds.—Notwithstanding any other provision of law, no funds authorized to be appropriated to the United States Information Agency may be obligated or expended for the purpose of, or which would result in, the termination or a substantial alteration of the terms and conditions previously authorized by the Agency for the implementation of Exchange Visitor Programs Nos. P–3–5214T and P–3–5238T.

n. International Communication Agency

Executive Order 12048, March 27, 1978, 43 F.R. 13361, as amended by Executive Order 12388, October 14, 1982, 47 F.R. 46245; and by Executive Order 12608, September 9, 1987, 52 F.R. 34617

INTERNATIONAL COMMUNICATION AGENCY [1]

By virtue of the authority vested in me by the Constitution and laws of the United States of America, including Section 11 of Reorganization Plan No. 2 of 1977 (42 FR 62461 (December 13, 1977)), Section 202 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 581c), and Section 301 of Title 3 of the United States Code, and as President of the United States of America, in order to provide for the establishment of the International Communication Agency, it is hereby ordered as follows:

Sec. 1. (a) Reorganization Plan No. 2 of 1977 (42 FR 62461), which establishes the International Communication Agency, except for Section 7(a)(14) thereof, is hereby effective.[2]

(b) Section 7(a)(14) of Reorganization Plan No. 2 of 1977, relating to the Woodrow Wilson Memorial Act of 1968, shall be effective on July 1, 1978.

Sec. 2. The functions vested in the Secretary of State by Executive Order No. 11312 [3] are assigned and redelegated to the Director of the International Communication Agency. All authority vested in the United States Information Agency or its Director by Executive Order is reassigned and redelegated to the International Communication Agency or its Director, respectively.

Sec. 3. In order to ensure appropriate coordination among the Executive agencies, the Director of the International Communication Agency shall exercise primary responsibility for Government-wide policy guidance for international informational, educational, and cultural activities, including exchange programs. The Director shall take into account the statutory functions of the other concerned Executive agencies.

Sec. 4. The Director of the International Communication Agency, with the assistance of the Secretary of Education, shall prepare and submit to the President the reports which the President is to transmit to the Congress pursuant to Section 108(b) of the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2458).

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[1] Sec. 303 of Public Law 97-241 (96 Stat. 291) redesignated the International Communication Agency as the United States Information Agency and stated that any reference to the International Communication Agency in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding, shall be deemed to be a reference to the United States Information Agency. Sec. 303 also stated that references to the Director or other official of the International Communication Agency shall be deemed to refer to the Director or other official of the United States Information Agency. See sec. 10 of this order.

[2] For text of Reorganization Plan No. 2 of 1977, see vol. V, sec. E.

[3] Executive Order 11312 was revoked by Executive Order 12047, effective April 1, 1978.

Sec. 5. The functions vested in the President by Sections 108(c) and 108(d) of the Mutual Educational and Cultural Exchange Act of 1961, as amended, are delegated to the Director of the International Communication Agency; because, (a) such a delegation is in the interest of the purposes expressed in that Act and the efficient administration of the programs undertaken pursuant thereto, (b) the Director is an appropriate official to perform those functions, and (c) those functions are not now delegated to any other officer of the Government.

Sec. 6. The Director of the International Communication Agency shall be the principal adviser to the President, the National Security Council, and the Secretary of State on international informational, educational, and cultural matters. As such, the Director shall provide advice within the policy formulation activities of the National Security Council when such matters are considered. The Director shall ensure that the senior official of the Agency at each diplomatic mission provides advice to the Chief of Mission on such matters. The scope of the Director's advice shall include assessments of the impact of actual and proposed United States foreign policy decisions on public opinion abroad.

Sec. 7. The records, property, personnel, and unexpended balances of appropriations, available or to be made available, which relate to the functions transferred or reassigned, or redelegated as provided in this Order, are hereby transferred to the Director of the International Communication Agency.

Sec. 8. The Director of the Office of Management and Budget shall make such determinations, issue such orders, and take all actions, necessary or appropriate to effectuate the transfers or reassignments provided in this Order, including the transfer of funds, records, property, and personnel.

Sec. 9. This Order shall be effective on April 1, 1978.

Sec. 10.[4] In accord with the name change provisions of Section 303 of Public Law 97-241 and effective on August 24, 1982, references in this Order to the International Communication Agency shall be deemed to be references to the United States Information Agency.

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[4] Sec. 10 was added by sec. 2 of Executive Order 12388.

o. Authority of Director, United States Information Agency

Executive Order 10477, August 1, 1953, 18 F.R. 4540, 3 CFR, 1949–1953 Comp., p. 958; as amended by Executive Order 10822, May 20, 1959, 24 F.R. 4159, 3 CFR, 1959–1963 Comp., p. 357

AUTHORIZING THE DIRECTOR OF THE UNITED STATES INFORMATION AGENCY TO EXERCISE CERTAIN AUTHORITY AVAILABLE BY LAW TO THE SECRETARY OF STATE AND THE DIRECTOR OF THE FOREIGN OPERATIONS ADMINISTRATION

By virtue of the authority vested in me by section 2(d) of Reorganization Plan No. 8 of 1953, and as President of the United States, it is ordered as follows:

Section 1. Determination. It is hereby determined that it is necessary, in order to carry out the functions transferred to the Director of the United States Information Agency (hereinafter referred to as the Director) by the provisions of subsections (a), (b), and (c) of section 2 of the said Reorganization Plan No. 8 of 1953, to authorize the Director to exercise, in relation to the respective functions so transferred, the authority specified in sections 2 and 3 hereof.

Sec. 2. Authority under the Foreign Service Act and related laws. (a) Except as provided in section 2(c) of this order, the Director is authorized to exercise, with respect to Foreign Service Reserve officers, Foreign Service staff officers and employees, and alien clerks and employees employed to perform the said transferred functions, the authority available to the Secretary of State under the Foreign Service Act of 1946, 60 Stat. 999, as heretofore or hereafter amended, or under any other provision of law pertaining specifically, or generally applicable, to Foreign Service Reserve officers, Foreign Service staff officers and employees, and alien clerks and employees, including the authority to prescribe regulations, not inconsistent with applicable laws, incident to the exercise of such authority, and including also the authority available to the Secretary of State under section 571 of the Foreign Service Act of 1946, as amended.[1] The Director is further authorized to exercise in the performance of the said transferred functions the authority available to the Secretary of State under sections 561 and 562 of the Foreign Service Act of 1946, as amended, and under sections 1021 through 1071 thereof.

(b) The prohibitions and requirements contained in sections 1001 through 1005 and section 1011 of the Foreign Service Act of 1946, as amended, shall be applicable to the personnel of the United States Information Agency.

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[1] The last clause of this sentence, beginning with the words "and including also" was added by sec. 3 of Executive Order 10822.

(c) There are hereby excluded from the authority granted to the Director by section 2(a) of this order the following-described powers now vested in or delegated to the Secretary of State:

(1) The authority of the Secretary of State to make recommendations to the President for the commissioning of Foreign Service Reserve officers as diplomatic or consular officers, or both, under section 524 of the Foreign Service Act of 1946, as amended, and to make recommendations for the commissioning of Foreign Service staff officers or employees as consuls under section 533 of such act, and the authority of the Secretary to commission Foreign Service staff officers as vice consuls under the said section 533. The Director may, whenever he considers it necessary to carry out the functions transferred to him by the said Reorganization Plan No. 8 of 1953, request the Secretary of State to recommend to the President that persons employed under section 2(a) of this order be commissioned as diplomatic or consular officers, or both, or to grant such persons diplomatic or consular commissions, as appropriate.

(2) The authority vested in the President by sections 443 and 901 of the Foreign Service Act of 1946, as amended, which has been delegated to the Secretary of State by Executive Orders Nos. 10000 and 10011, and successive amendments thereof, to designate places, fix rates and prescribe regulations governing the payment of additional compensation, known as "foreign post differential", to employees in foreign areas of executive departments and independent establishments of the United States, and to designate places, fix rates, and prescribe regulations, with respect to civilian employees of the Government serving abroad, governing living-quarters allowances, cost-of-living allowances, and representation allowances.

Sec. 3. Authority under various other statutes. The Director is authorized to exercise the authority available to the Secretary of State or the Director of the Foreign Operations Administration, as the case may be, under the following-described provisions of law:

(a) The Foreign Service Buildings Act of 1926, as amended (22 U.S.C. 292–300), regarding the acquisition, construction, alteration, repair, furnishing, exchange, and disposal of buildings and grounds in foreign countries.

(b) The act of July 9, 1949 (5 U.S.C. 170 a, b, and c), regarding the transfer, acquisition, use, and disposal of international broadcasting facilities.

(c) The act of August 3, 1950 (19 U.S.C. 1201, par. 1628), regarding the importation of sound recordings.

(d) The provisions under the first heading "Salaries and Expenses" of the Department of State Appropriation Act, 1954, regarding (1) employment of aliens, by contract, for services abroad, (2) purchase of uniforms, (3) cost of transporting to and from a place of storage and the cost of storing the furniture and household effects of an employee of the Foreign Service who is assigned to a post at which he is unable to use his furniture and effects, under such regulations as the Secretary of State may prescribe, (4) dues for library membership in organizations which issue publications to members only, or to members at a price lower than to others, (5) examination of estimates of appropriations in the field, (6) purchase of ice and drinking water abroad, (7) payment of excise taxes on negotiable instruments abroad, and (8) procurement, by contract or otherwise, of services, supplies, and facilities, as follows: (i) maintenance, improvement, and repair of properties used for international information activities in foreign countries, (ii) fuel and utilities for Government-owned or leased property abroad, and (iii) rental or lease for periods not exceeding ten years of offices, buildings, ground, and living quarters, and the furnishing of living quarters to officers and employees engaged in international information activities abroad (22 U.S.C. 291).

(e) The provisions of the Department of State Appropriation Act, 1954, regarding (1) exchange of funds for payment of expenses in connection with the operation of information establishments abroad without regard to the provisions of section 3651 of the Revised Statutes (31 U.S.C. 543) (section 103 of the General Provisions of the Department of State Appropriation Act, 1954), (2) payment of travel expenses outside the continental limits of the United States from funds available in the fiscal year that such travel is authorized and actually begins (section 104 of the General Provisions of the Department of State Appropriation Act, 1954), (3) granting authority to the chief of each information Field Staff to approve, with the concurrence of the Chief of Mission, use of Government-owned vehicles for travel under conditions described in section 105 of the General Provisions of the Department of State Appropriation Act, 1954, and (4) purchase with foreign currencies for use abroad of passenger motor vehicles (exclusive of buses, ambulances, and station wagons) at a cost not to exceed the equivalent of $2,200 for each vehicle (section 106 of the General Provisions of the Department of State Appropriation Act, 1954).

(f) Section 202 of the Revised Statutes of the United States (5 U.S.C. 156), so far as it authorizes the Secretary of State to keep the American public informed about the international information aspects of the United States foreign affairs.

(g) Section 504(d) of the Mutual Security Act of 1951, as amended (relating to reduction in personnel), with respect to personnel transferred from the Mutual Security Agency or the Foreign Operations Administration to the United States Information Agency.

(h) Section 161 of the Revised Statutes of the United States (5 U.S.C. 301) and section 4 of the act of May 26, 1949 (5 U.S.C. 151c), regarding the promulgation of rules and regulations and the delegation of authority.

Sec. 4. Effective date. This order shall become effective on August 1, 1953.

2. Mutual Educational and Cultural Exchange Act and Related Materials

a. Mutual Educational and Cultural Exchange Act of 1961, as amended (Fulbright-Hays Act)

Public Law 87-256 [H.R. 8666], 75 Stat. 527, approved September 21, 1961; as amended by Public Law 87-565 [S. 2996], 76 Stat. 255, approved August 1, 1962; Public Law 87-793 [H.R. 7927], 76 Stat. 832, approved October 11, 1962; Public Law 89-698 [H.R. 14263], 80 Stat. 1066, approved October 29, 1966; Public Law 94-350 [S. 3168], 90 Stat. 823, approved July 12, 1976; Public Law 95-426 [Foreign Relations Authorization Act, Fiscal Year 1979; H.R. 12598], 92 Stat. 963 at 973, approved October 7, 1978; Public Law 96-60 [ICA Authorization Act, Fiscal Years 1980 and 1981; H.R. 3363] 93 Stat. 395 at 398, approved August 15, 1979; Public Law 96-465 [Foreign Service Act of 1980, H.R. 6790], 94 Stat. 2071 at 2160, approved October 17, 1980; Public Law 96-470 [Congressional Reports Elimination Act of 1980, H.R. 6686], 94 Stat. 2237 at 2246, approved October 19, 1980; Public Law 98-164 [H.R. 2915], 97 Stat. 1017, approved November 22, 1983; and by Public Law 100-204 [H.R. 1777], 101 Stat. 1331, approved December 22, 1987

AN ACT To provide for the improvement and strengthening of the international relations of the United States by promoting better mutual understanding among the peoples of the world through educational and cultural exchanges.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Mutual Educational and Cultural Exchange Act of 1961."

Sec. 101.[1] **Statement of Purpose.**—The purpose of this Act is to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries by means of educational and cultural exchange; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations, and the contributions being made toward a peaceful and more fruitful life for people throughout the world; to promote international cooperation for educational and cultural advancement; and thus to assist in the development of friendly, sympathetic, and peaceful relations between the United States and the other countries of the world.

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[1] 22 U.S.C. 2451. Sec. 107 of the Foreign Relations Authorization Act, Fiscal Year 1978 (91 Stat. 845), called for a strengthening of educational exchange programs. For text of the congressional findings and reference to a report due from State Department regarding these programs, see page 168.

Sec. 102.[2] (a) The President [3] is authorized, when he considers that it would strengthen international cooperative relations, to provide, by grant, contract, or otherwise, for—

(1) educational exchanges, (i) by financing studies, research, instructions, and other educational activities—

(A) of or for American citizens and nationals in foreign countries, and

(B) of or for citizens and nationals of foreign countries in American schools and institutions of learning located in or outside the United States;

and (ii) by financing visits and interchanges between the United States and other countries of students, trainees, teachers, instructors, and professors;

(2) cultural exchanges, by financing—

(i) visits and interchanges between the United States and other countries of leaders, experts in fields of specialized knowledge or skill, and other influential or distinguished persons;

(ii) tours in countries abroad by creative and performing artists and athletes from the United States, individually and in groups, representing any field of the arts, sports, or any other form of cultural attainment;

(iii) United States representation in international artistic, dramatic, musical, sports, and other cultural festivals, competitions, meetings, and like exhibitions and assemblies;

(iv) participation by groups and individuals from other countries in nonprofit activities in the United States similar to those described in subparagraphs (ii) and (iii) of this paragraph, when the President [3] determines that such participation is in the national interest.

(3) [4] United States participation in international fairs and expositions abroad, including trade and industrial fairs and

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[2] 22 U.S.C. 2452.

[3] Pursuant to sec. 7(a)(1) of Reorganization Plan No. 2 of 1977, all functions vested in the President, Secretary of State, the Department of State, the Director of the United States Information Agency, and the United States Information Agency by this section except for those in subsecs. (b)(6) and (b)(10) were transferred to the Director of the International Communication Agency. The codified version of this Act has been changed to reflect this transfer of authority.

Subsequently, sec. 303 of Public Law 97-241 (96 Stat. 291) redesignated the International Communication Agency as the United States Information Agency and stated that any reference to the International Communication Agency in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding, shall be deemed to be a reference to the United States Information Agency. Sec. 303 also stated that references to the Director or other official of the International Communication Agency shall be deemed to refer to the Director or other official of the United States Information Agency.

[4] This paragraph was amended by sec. 403 of Public Law 87-565 (76 Stat. 263, approved August 1, 1962), inserting the word "abroad" after the word "expositions." The intent of Congress, as stated in the conference report (House Report 2008, 87th Congress) was to make clear that U.S. participation in fairs is limited to fairs held abroad and to conform to the long-established practice by which Congress authorizes on an individual basis U.S. participation in major fairs held in the United States The amendment excepted U.S. participation in fairs or expositions for which an appropriation had already been provided, specifically participation in the New York World's Fair of 1964-65 for which funds had been approved. (sec. 403, Public Law 87-565.)

The Department of State and Related Agencies Appropriations Act, 1985 (title III of Public Law 98-411, 98 Stat. 1569) provided $7,303,000 to carry out the purposes of this paragraph during fiscal year 1985.

other public or private demonstrations of United States economic accomplishments and cultural attainments.

(b) In furtherance of the purposes of this Act, the President [3] is further authorized to provide for—

(1) interchanges between the United States and other countries of handicrafts, scientific, technical, and scholarly books, books of literature, periodicals, and Government publications, and the reproduction and translation of such writings, and the preparation, distribution, and interchange of other educational and research materials, including laboratory and technical equipment for education and research;

(2) establishing and operating in the United States and abroad centers for cultural and technical interchanges to promote better relations and understanding between the United States and other nations through cooperative study, training, and research;

(3) assistance in the establishment, expansion, maintenance, and operation of schools and institutions of learning abroad, founded, operated, or sponsored by citizens or nonprofit institutions of the United States, including such schools and institutions serving as demonstration centers for methods and practices employed in the United States;

(4) fostering and supporting American studies in foreign countries through professorships, lectureships, institutes, seminars, and courses in such subjects as American history, government, economics, language and literature, and other subjects related to American civilization and culture, including financing the attendance at such studies by persons from other countries;

(5) promoting and supporting medical, scientific, cultural, and educational research and development;

(6) promoting modern foreign language training and area studies in United States schools, colleges, and universities by supporting visits and study in foreign countries by teachers and prospective teachers in such schools, colleges, and universities for the purpose of improving their skill in languages and their knowledge of the culture of the people of those countries, and by financing visits by teachers from those countries to the United States for the purpose of participating in foreign language training and area studies in United States schools, colleges, and universities;

(7) United States representation at international nongovernmental educational, scientific, and technical meetings;

(8) participation by groups and individuals from other countries in educational, scientific, and technical meetings held under American auspices in or outside the United States;

(9) encouraging independent research into the problem of educational and cultural exchange;

(10) [5] promoting studies, research, instruction, and other educational activities of citizens and nationals of foreign countries

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[5] Paragraph (10) was added by sec. 203(a) of the International Education Act of 1966 (Public Law 89-698, 80 Stat. 1071).

in American schools, colleges, and universities located in the United States by making available to citizens and nationals of less developed friendly foreign countries for exchange for currencies of their respective countries (other than excess foreign currencies), at United States embassies, United States dollars in such amounts as may be necessary to enable such foreign citizens or nationals who are coming temporarily to the United States as students, trainees, teachers, instructors, or professors to meet expenses of the kind described in section 104(e)(1) of this Act, and

(11) [6] interchanges and visits between the United States and other countries of scientists, scholars, leaders, and other experts in the fields of environmental science and environmental management.

Sec. 103.[7] (a) The President [3] is authorized to enter into agreements with foreign governments and international organizations, in furtherance of the purposes of this Act. In such agreements the President [3] is authorized, when he deems it in the public interest, to seek the agreement of the other governments concerned to cooperate and assist, including making use of funds placed in special accounts pursuant to agreements concluded in accordance with section 115(b)(6) of the Economic Cooperation Act of 1948, or any similar agreements,[8] in providing for the activities authorized in section 102, and particularly those authorized in subsection 102(a)(1), of this Act with respect to the expenses of international transportation of their own citizens and nationals and of activities in furtherance of the purposes of this Act carried on within the borders of such other nations.

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[6] Paragraph 11 was added by sec. 703(a) of Public Law 98-164 (97 Stat. 1045). Sec. 703(b) of Public Law 98-164 also specified the following:

"(b) Of the amount by which expenditures for the Fulbright Academic Exchange Programs, for the Humphrey Fellowship Program, and for the International Visitor Program for each of the fiscal years 1984 and 1985 exceeds the expenditures for these programs in fiscal year 1982, 5 percent shall be used to finance programs authorized by the amendment made by subsection (a) of this section."

[7] 22 U.S.C. 2453.

[8] The Economic Cooperation Act of 1948, as amended, was repealed by sec. 542(a) of the Mutual Security Act of 1954. Sec. 115(b)(6) and (h) of the former Act were replaced by sec. 142(b) of the latter Act. Sec. 142(b) of the Mutual Security Act of 1954, as amended, was in turn repealed by the Foreign Assistance Act of 1961, Public Law 87-195 (75 Stat. 424). It was replaced by sec. 609 of Public Law 87-195, which provided as follows:

"Sec. 609. Special Account.—(a) In cases where any commodity is to be furnished on a grant basis under chapter 4 of part I under arrangements which will result in the accrual of proceeds to the recipient country from the sale thereof, the President shall require the recipient country to establish a Special Account, and

"(1) deposit in the Special Account, under such terms and conditions as may be agreed upon, currency of the recipient country in amounts equal to such proceeds;

"(2) make available to the United States Government such portion of the Special Account as may be determined by the President to be necessary for the requirements of the United States Government: *Provided*, That such portion shall not be less than 10 per centum in the case of any country to which such minimum requirement has been applicable under any Act repealed by this Act; and

"(3) utilize the remainder if the Special Account for programs agreed to by the United States Government to carry out the purposes for which new funds authorized by this Act would themselves be available: *Provided*, That whenever funds from such Special Account are used by a country to make loans, all funds received in repayment of such loans prior to termination of assistance to such country shall be reused only for such purposes as shall have been agreed to between the country and the United States Government.

"(b) Any unencumbered balances of funds which remain in the Account upon termination of assistance to such country under this Act shall be disposed of for purposes as may, subject to approval by Act of the Congress, be agreed to between such country and the United States Government."

(b) Such agreements may also provide for the creation or continuation of binational or multinational educational and cultural foundations and commissions for the purpose of administering programs in furtherance of the purposes of this Act.

(c) In such agreements with international organizations, the President [3] may provide for equitable United States participation in and support for, including a reasonable share of the cost of, educational and cultural programs to be administered by such organizations.

Sec. 104.[9] (a) The President may delegate, to such officers of the Government as he determines to be appropriate, any of the powers conferred upon him by this Act to the extent that he finds such delegation to be in the interest of the purposes expressed in this Act and the efficient administration of the programs undertaken pursuant to this Act: *Provided,* That where the President has delegated any of such powers to any officer, before the President implements any proposal for the delegation of any of such powers to another officer, that proposal shall be submitted to the Speaker of the House of Representatives and to the Committee on Foreign Relations of the Senate, and thereafter a period of not less than sixty days shall have elapsed while Congress is in session. In computing such sixty days, there shall be excluded the days on which either House is not in session because of an adjournment of more than three days.

(b) [10] The President is authorized to employ such other personnel as he deems necessary to carry out the provisions and purposes of this Act, and of such personnel not to exceed ten may be compensated without regard to the provisions of the Classification Act of 1949, as amended,[11] but not in excess of the highest rate of grade 18 of the general schedule established by such Act. Such positions shall be in addition to the number authorized by section 505 of the Classification Act of 1949, as amended.[12]

(c) [13] * * * [Repealed—1981]

(d) For the purpose of performing functions under this Act outside the United States, the President [3] is authorized to provide that any person employed or assigned by a United States Government agency shall be entitled, except to the extent that the President [3] may specify otherwise in cases in which the period of employment or assignment exceeds thirty months, to the same benefits as are provided by section 310 of the Foreign Service Act of 1980, for individuals appointed to the Foreign Service.[14]

(e)(1) In providing for the activities and interchanges authorized by section 102 of this Act, grants may be made to or for individuals, either directly or through foundations or educational or other institutions, which foundations or institutions are public or private nonprofit, and may include funds for tuition and other necessary incidental expenses, for travel expenses from their places of residence and return for themselves, and, whenever it would further the purposes of this Act, for the dependent members of their immediate families, for health and accident insurance premiums, emergency medical expenses, costs of preparing and transporting to their former homes the remains of any of such persons who may die while away from their homes as participants or dependents of participants in any program under this Act, and for per diem in lieu of subsistence at rates prescribed by the Director of the International Communication Agency,[15] for all such persons, and for such other expenses as are necessary for the successful accomplishment of the purposes of this Act.

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[9] 22 U.S.C. 2454.

[10] This subsection was amended and restated by sec. 1001(j) of Public Law 87-793 (76 Stat. 865).

[11] 5 U.S.C. 5101 et seq.

[12] 5 U.S.C. 5332(a).

[13] Subsec. (c), which authorized the Secretary of State to employ or assign persons in or to the Foreign Service Reserve or Foreign Service Staff and alien clerks and employees for the purpose of performing functions under this Act outside of the United States, was repealed by sec. 2205(7) of the Foreign Service Act of 1980 (Public Law 96-465, 94 Stat. 2160).

[14] The reference to sec. 310 of the Foreign Service Act of 1980 was substituted in lieu of a reference to sec. 528 of the Foreign Service Act of 1946 by sec. 2206(9) of Public Law 96-465 (94 Stat. 2162).

(2) Funds available for programs under this Act may be used (i) to provide for orientation courses, language training, or other appropriate services and materials for persons traveling out of the countries of their residence for educational and cultural purposes which further the purposes of this Act, whether or not they are receiving other financial support from the Government, and (ii) to provide or continue services to increase the effectiveness of such programs following the return of such persons to the countries of their residence.

(3) For the purpose of assisting foreign students in making the best use of their opportunities while attending colleges and universities in the United States, and assisting such students in directing their talents and initiative into channels which will make them more effective leaders upon return to their native lands, the President may make suitable arrangements, by contract or otherwise, for the establishment and maintenance at colleges and universities in the United States attended by foreign students of an adequate counseling service.

(4) The President is authorized to provide for publicity and promotion (including representation) abroad of activities of the type provided for in this Act.

(f) [16] * * * [Repealed—1979]

(g) [17] (1) For the purpose of performing functions authorized by section 102(b)(10) of this Act, the President is authorized to establish the exchange rates at which all foreign currencies may be acquired through operations under such section, and shall issue regulations binding upon all embassies with respect to the exchange rates to be applicable in each of the respective countries where currency exchanges are authorized under such section.

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[15] This reference to the Director of the Agency was substituted in lieu of a reference to the President by sec. 204(a) of Public Law 95–426 (92 Stat. 973). Sec. 303 of Public Law 97–241 (96 Stat. 291) redesignated the International Communication Agency as the United States Information Agency and stated that any reference to the International Communication Agency in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding, shall be deemed to be a reference to the United States Information Agency. Sec. 303 also stated that references to the Director or other official of the International Communication Agency shall be deemed to refer to the Director or other official of the United States Information Agency.

[16] Subsec. (f), which required that all persons employed or assigned duties under this Act be investigated with respect to loyalty and suitability, was repealed by sec. 203(a)(1) of the ICA Authorization Act, Fiscal Years 1980 and 1981 (Public Law 96–60, 93 Stat. 398).

[17] Subsec. (g) was added by sec. 203(b) of the International Education Act of 1966 (Public Law 89–698, 80 Stat. 1071).

(2) In performing the functions authorized under section 102(b)(10) of this Act, the President shall make suitable arrangements for protecting the interests of the United States Government in connection with the ownership, use, and disposition of all foreign currencies acquired pursuant to exchanges made under such section.

(3) The total amount of United States dollars acquired by any individual through currency exchanges under the authority of section 102(b)(10) of this Act shall in no event exceed $3,000 during any academic year.

(4) An individual shall be eligible to exchange foreign currency for United States dollars at United States embassies under section 102(b)(10) of this Act only if he gives satisfactory assurances that (A) he will devote essentially full time to his proposed educational activity in the United States and will maintain good standing in relation to such program; (B) he will return to the country of his citizenship or nationality prior to coming to the United States and will render such public service as is determined acceptable for a period of time determined reasonable and necessary by the government of such country; and (C) he will not apply for an immigrant visa or for permanent residence or for a nonimmigrant visa under the Immigration and Nationality Act after having received any benefits under such section for a period of time equal to the period of study, research, instruction, or other educational activity he performed pursuant to such section.

(5) As used in section 102(b)(10) of this Act, the term "excess foreign currencies" means foreign currencies, which if acquired by the United States (A) would be in excess of the normal requirements of departments, agencies, and embassies of the United States for such currencies, as determined by the President, and (B) would be available for the use of the United States Government under applicable agreements with the foreign country concerned.

Sec. 105.[18] (a) Appropriations to carry out the purposes of this Act, to remain available until expended, are hereby authorized, and this authorization includes the authority to grant, in any appropriation Act, the authority to enter into contracts, within the amounts so authorized, creating obligations in advance of appropriations.

(b) Funds appropriated for programs under this Act may, without regard to section 3651 of the Revised Statutes (31 U.S.C. 543), be used for the acquisition from any source of foreign currencies in such amounts as may be necessary for current expenditures and for grants, including grants to foundations and commissions in accordance with international agreements providing for the accomplishment of the purposes of this Act.

(c) Moneys appropriated to any department or agency of the Government in furtherance of the purposes of this Act for research, technical aid, and educational and cultural programs, may be transferred by the President to any other appropriation available for like purposes, but no appropriation authorized by this Act shall be increased or decreased by more than 10 per centum by reason of transfers pursuant to this paragraph.

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[18] 22 U.S.C. 2455.

(d) The President is authorized—

(1) to reserve in such amounts and for such periods as he shall determine to be necessary to provide for the programs authorized by subsections 102(a)(1) and 102(a)(2)(i), and

(2) notwithstanding the provisions of any other law, to use in such amounts as may from time to time be specified in appropriation Acts, to the extent that such use is not restricted by agreement with the foreign nations concerned, for any programs authorized by this Act,

any currencies of foreign nations received or to be received by the United States or any agency thereof—

(i) under agreements disposing of surplus property or settling lend-lease and other war accounts concluded after World War II;

(ii) as the proceeds of sales or loan repayments, including interests, for transactions heretofore or hereafter effected under the Agricultural Trade Development and Assistance Act of 1954, as amended;

(iii) in repayment of principal or interest on any other credit extended or loan heretofore or hereafter made by the United States or any agency thereof; or

(iv) as deposits to the account of the United States pursuant to section 115(b)(6) or section 115(h) of the Economic Cooperation Act of 1948, as amended, or any similar provision of any other law.[19]

(e) The President [3] is further authorized to reserve and use for educational and cultural exchange programs and other activities authorized in subsections 102 (a) and (b) of this Act, in relation to Finland and the people of Finland, all sums due or paid on and after August 24, 1949, by the Republic of Finland to the United States as interest on or in retirement of the principal of the debt incurred under the Act of February 25, 1919, as refunded by the agreement dated May 1, 1923, pursuant to the authority contained in the Act of February 9, 1922, or of any other indebtedness incurred by that Republic and owing to the United States as a result of World War I.

(f) Foreign governments, international organizations and private individuals, firms, associations, agencies, and other groups shall be encouraged to participate to the maximum extent feasible in carrying out this Act and to make contributions of funds, property, and services which the President is hereby authorized to accept, to be utilized to carry out the purposes of this Act. Funds made available for the purposes of this Act may be used to contribute toward meeting the expenses of activities carried out through normal private channels, by private means, and through foreign governments and international organizations.

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[19] See footnote 8.

(g)[20] Notwithstanding any other provision of this Act, there are authorized to be appropriated for the purposes of making currency exchanges under section 102(b)(10) of this Act, not to exceed $10,000,000 for the fiscal year ending June 30, 1968, and not to exceed $15,000,000 for the fiscal year ending June 30, 1969.

Sec. 106.[21] (a)(1) For the purpose of selecting students, scholars, teachers, trainees, and other persons to participate in the programs authorized under section 102(a)(1) of this Act, and of supervising such programs and the programs authorized under section 102(b)(4) and (6), there is hereby continued the authority of the President to appoint a Board of Foreign Scholarships (hereinafter referred to as the "Board") consisting of twelve members. In connection with appointments to such Board, due consideration shall be given to the selection of distinguished representatives of cultural, educational, student advisory, and war veterans groups, and representatives of the United States Office of Education, the United States Veterans' Administration, public and private nonprofit educational institutions.

(2) In the selection of American citizens for participation in programs under this Act, preference shall be given to those who have served in the Armed Forces of the United States, and due consideration shall be given to applicants from all geographical areas of the United States.

(b)(1) The United States Advisory Commission on International Educational and Cultural Affairs[22] (hereinafter referred to as the "Commission") is hereby established to replace the United States Advisory Commission on Educational Exchange. The Commission shall formulate and recommend to the President policies for exercising his authority under this Act and shall appraise the effectiveness of programs carried out pursuant to it. The Commission shall make a special study of the effectiveness of past programs with emphasis on the activities of a reasonably representative cross section of past recipients of aid and shall submit a report to the Congress not later than December 31, 1962.

(2) The Commission shall consist of nine members who shall be appointed by the President, by and with the advice and consent of the Senate. Members of the Commission shall be appointed on a nonpartisan basis.

(3) The members of the Commission shall represent the public interest and shall be selected from a cross section of educational, cultural, scientific, technical, and public service backgrounds.

(4) The term of each member shall be three years except that, of the first nine appointments, three shall be for a term of one year and three shall be for a term of two years. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor is appointed shall be appointed for the remainder of such term. Upon the expiration of his term of office any

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[20] Subsec. (g) was added by sec. 203(c) of the International Education Act of 1966 (Public Law 89-698, 80 Stat. 1072).

[21] 22 U.S.C. 2456.

[22] The functions vested in this commission were consolidated and vested in a new United States Advisory Commission on International Communication, Cultural and Educational Affairs, pursuant to sec. 8(b) of Reorganization Plan No. 2 of 1977 (such new commission was redesignated as the U.S. Advisory Commission on Public Diplomacy in 1979).

member may continue to serve until his successor is appointed and has qualified.

(5) The President shall designate a Chairman from among members of the Commission.

(6) The Commission is authorized to adopt such rules and regulations as it may deem necessary to carry out the authority conferred upon it by this Act.

(c)(1) There is hereby continued the Advisory Committee on the Arts [23] (hereinafter referred to as the "Committee") created under section 10 of the International Cultural Exchange and Trade Fair Participation Act of 1956,[24] consisting of a Chairman and nine other members of whom at least one shall be a member of the Commission. Appointment of all members and selection of the Chairman of this Committee shall hereafter be made by the Secretary of State. In making such appointments due consideration shall be given to the recommendations for nomination submitted by leading national organizations in the major art fields.

(2) The members of the Committee shall be individuals whose knowledge of or experience in, or whose profound interest in, one or more of the arts will enable them to assist the Commission, the President, and other officers of the Government in performing the functions described in paragraph (3) of this subsection.

(3) The Committee shall, in connection with activities authorized under subsection 102(a)(2) of this Act—

(A) advise and assist the Commission in the discharge of its responsibilities in the field of international educational exchange and cultural presentations with special reference to the role of the arts in such fields;

(B) advise other interested officers of the Government in the discharge of their responsibilities in connection with such activities and in connection with other international activities concerned with the arts;

(C) provide such other advice and assistance as may be necessary or appropriate.

(4) The term of office of each of the members of the Committee shall be three years.

(d) The President is authorized to create such interagency and other advisory committees as in his judgment may be of assistance in carrying out the purposes of this Act, and from time to time to convene conferences of persons interested in educational and cultural affairs to consider matters relating to the purposes of this Act.

(e) The provisions of section 214 of the Act of May 3, 1945 (59 Stat. 134; 31 U.S.C. 691), shall be applicable to any interagency committee created pursuant to the provisions of this Act. Members of the Commission, the Committee, and other committees provided for in this section shall be entitled (i) to transportation expenses and per diem in lieu of subsistence at the rate prescribed by or established pursuant to section 5 of the Administrative Expense Act of 1946, as amended (5 U.S.C. 73b-2), while away from home in connection with attendance at meetings or in consultation with officials of the Government or otherwise carrying out duties as authorized, and (ii) if not otherwise in the employ of the United States Government, to compensation at rates not in excess of $50 per diem while performing services for Commission, Committee, or other committee. Members of the Board shall be entitled to such expenses and per diem in lieu of subsistence as provided for under clause (i) of the preceding sentence and, while performing services for the Board, to compensation at a rate, prescribed by the Director of the International Communication Agency,[25] not in excess of the daily rate for the first step of GS-15 of the General Schedule under section 5332 of title 5, United States Code.[26]

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[23] This committee was abolished by sec. 9(6) of Reorganization Plan No. 2 of 1977.

[24] The International Cultural Exchange and Trade Fair Participation Act of 1956 was repealed by this Act. See sec. 111(a)(3), page 676.

(f) The President is authorized to provide for necessary secretarial and staff assistance for the Board, the Commission, the Committee, and such other committees as may be created under this section.

Sec. 107.[27] The Board, the Commission, and the Committee shall submit annual reports to the Congress and such other reports to the Congress as they deem appropriate, and shall make reports to the public in the United States and abroad to develop a better understanding of and support for the programs authorized by this Act.

Sec. 108.[28] (a)(1)[29] Whenever the President determines it to be in furtherance of this Act, the functions authorized in section 102(a) (2) and (3) may be performed without regard to such provisions of law or limitations of authority regulating or relating to the making, performance, amendment, or modification of contracts, the acquisition and disposition of property, and the expenditure of Government funds, as he may specify.

(2) [29] Notwithstanding any other provision of law, the Director of the International Communication Agency [25] may provide, on a reimbursable basis, services within the United States in connection with exchange activities otherwise authorized by this Act when such services are requested by a department or executive agency. Reimbursements under this paragraph shall be credited to the applicable appropriation of the Agency.

(b) [30] The President shall submit periodic reports to the Congress of activities carried on and expenditures made in furtherance of the purposes of this Act and of the United States Information and Educational Exchange Act of 1948, as amended.

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[25] Sec. 303 of Public Law 97-241 (96 Stat. 291) redesignated the International Communication Agency as the United States Information Agency and stated that any reference to the International Communication Agency in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding, shall be deemed to be a reference to the United States Information Agency. Sec. 303 also stated that references to the Director or other official of the International Communication Agency shall be deemed to refer to the Director or other official of the United States Information Agency.

[26] This sentence was added (effective October 1, 1979) by sec. 205 of the ICA Authorization Act, Fiscal Years 1980 and 1981 (Public Law 96-60, 93 Stat. 401). Previously, the entitlements of members of the Board were included under clauses (i) and (ii).

[27] 22 U.S.C. 2457.

[28] 22 U.S.C. 2458.

[29] Paragraph designation "(1)" and a new par. (2) were added by sec. 203(d) of the ICA Authorization Act, Fiscal Years 1980 and 1981 (Public Law 96-60, 93 Stat. 399).

[30] Subsec. (b) was amended and restated by sec. 212(a) of Public Law 96-470 (94 Stat. 2246). The report required under subsec. (b) previously had been required annually.

(c) In connection with activities authorized by section 102(a) (2) and (3) of this Act, the President is authorized to provide for all necessary expenditures involved in the selection, purchase, rental, construction, or other acquisition of exhibits and materials and equipment therefor, and the actual display thereof, including but not limited to costs of transportation, insurance, installation, safekeeping and storage, maintenance and operation, rental of space, and dismantling.

(d) The President is authorized to utilize the provisions of title VIII of the United States Information and Educational Exchange Act of 1948, as amended, to the extent he deems necessary in carrying out the provisions and purposes of this Act.

Sec. 108A.[31] (a)(1) Congress consents to the acceptance by a Federal employee of grants and other forms of assistance provided by a foreign government to facilitate the participation of such Federal employee in a cultural exchange—

(A) which is of the type described in section 102(a)(2)(i) of this Act,

(B) which is conducted for a purpose comparable of the purpose stated in section 101 of this Act, and

(C) which is specifically approved by the Secretary of State for purposes of this section;

but the Congress does not consent to the acceptance by any Federal employee of any portion of any such grant or other form of assistance which provides assistance with respect to any expenses incurred by or for any member of the family or household of such Federal employee.

(2) For purposes of this section, the term "Federal employee" means any employee as defined in subparagraphs (A) through (F) of section 7342(a)(1) of title 5 of the United States Code, but does not include a person described in subparagraph (G) of such section.

(b) The grants and other forms of assistance with respect to which the consent of Congress is given in subsection (a) of this section shall not constitute gifts for purposes of section 7342 of title 5 of the United States Code.

(c) The Secretary of State is authorized to promulgate regulations for purposes of this section.

Sec. 109.[32] * * *

Sec. 110.[33] * * *

Sec. 111. (a) There are hereby repealed—

(1) Section 32(b)(2) of the Surplus Property Act of 1944, as amended (60 Stat. 754, 50 U.S.C. App. Sec. 1641);

(2) Sections 2(2), 201, 203 insofar as it relates to schools, 601, 602, and 603 insofar as they relate to the Advisory Commission on Education Exchange, 1001 insofar as it relates to persons employed or assigned to duties under this Act, and 1008 and 1009 insofar as they relate to educational exchange activities, of the United States Information and Educational Exchange

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[31] 22 U.S.C. 2458a. Sec. 108A was added by sec. 111 of the Foreign Relations Authorization Act, Fiscal Year 1977 (Public Law 94-350).

[32] Sec. 109 contained amendments to the Immigration and Nationality Act.

[33] Sec. 110 contained amendments to the Internal Revenue Code of 1954 and the Social Security Act.

Act of 1948, as amended (62 Stat. 6; 22 U.S.C. sections 1431(2); 1434, 1439, 1440, 1446, 1448, 1466, 1467, and 1468);

(3) The International Cultural Exchange and Trade Fair Participation Act of 1956 (70 Stat. 778; 22 U.S.C. 1991-2001);

(4) The joint resolution of August 24, 1949, authorizing the use of Finnish World War I debt payments available for educational and technical instruction, and so forth (63 Stat. 630; 20 U.S.C. 222-224).

(b) All Executive orders, agreements, determinations, regulations, contracts, appointments, and other actions issued, concluded, or taken under authority of any provisions of law repealed by subsection (a) of this section shall continue in full force and effect and shall be applicable to the appropriate provisions of this Act until modified or superseded by appropriate authority.

(c) Any reference in any other Act to the provisions of law listed in subsection (a) shall hereafter be considered to be references to the appropriate provisions of this Act.

Sec. 112.[34] (a) In order to carry out the purposes of this Act, there is established in the United States Information Agency, or in such appropriate agency of the United States as the President shall determine, a Bureau of Educational and Cultural Affairs (hereinafter in this section referred to as the "Bureau"). The Bureau shall be responsible for managing, coordinating, and overseeing programs established pursuant to this Act, including but not limited to—

(1) the J. William Fulbright Educational Exchange Program which, by promoting the exchange of scholars, researchers, students, trainees, teachers, instructors, and professors, between the United States and foreign countries, accomplishes the purposes of section 102(a)(1) of this Act;

(2) the Hubert H. Humphrey Fellowship Program which finances (A) study at American universities and institutions of higher learning, including study in degree granting programs, and (B) participation in fellowships, internships, or other programs in American governmental and nongovernmental institutions for public managers and other individuals from developing countries;

(3) the International Visitors Program which provides grants for short-term visits to the United States for foreign nationals who are, or have the potential to be, leaders in their respective fields in their own countries;

(4) the American Cultural Centers and Libraries which make available at selected foreign locations, books, films, sound recordings, and other materials about the United States, its people and culture, and about other topics;

(5) the American Overseas Schools Program which provides financial assistance to the operations of American-sponsored schools overseas;

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[34] 22 U.S.C. 2460. Sec. 213 of the USIA Authorization Act, Fiscal Years 1984 and 1985 (title II of Public Law 98-164, 97 Stat. 1034) added sec. 112 with the exception of paragraphs (8) and (9) which were added respectively by secs. 302 and 303 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204, 101 Stat. 1378).

(6) the American Studies Program which fosters and supports the study of the United States, and its people and culture, in foreign countries;

(7) a program of working with private, not-for-profit groups through contracts, grants, or cooperative agreements, as authorized by section 102 of this Act, so as to provide financial assistance to nongovernmental organizations engaged in implementing and enhancing exchange-of-persons programs;

(8) [34] the Samantha Smith Memorial Exchange Program which advances understanding between the United States and the Soviet Union and between the United States and Eastern European countries through the exchange of persons under the age of 21 years and of students at an institution of higher education (as defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a))) who have not received their initial baccalaureate degree; and

(9) [34] the Arts America program which promotes a greater appreciation and understanding of American art abroad by supporting exhibitions and tours by American artists in other countries.

(b) The President shall insure that all programs under the authority of the Bureau shall maintain their nonpolitical character and shall be balanced and representative of the diversity of American political, social, and cultural life. The President shall insure that academic and cultural programs under the authority of the Bureau shall maintain their scholarly integrity and shall meet the highest standards of academic excellence or artistic achievement.

(c) The Bureau shall administer no programs except those operating under the authority of this Act and consistent with its purposes.

b. Administration of the Mutual Educational and Cultural Exchange Act of 1961

Executive Order 11034, June 25, 1962, 27 F.R. 6071, 3 CFR, 1959-1963 Comp., p. 614; as amended by Executive Order 11380, November 8, 1967, 32 F.R. 15627, 3 CFR, 1966-70 Comp., p. 689; Executive Order 12292, February 23, 1981, 46 F.R. 13967; and by Executive Order 12608, September 9, 1987, 52 F.R. 34617

ADMINISTRATION OF THE MUTUAL EDUCATIONAL AND CULTURAL EXCHANGE ACT OF 1961

By virtue of the authority vested in me by the Mutual Educational and Cultural Exchange Act of 1961 (Public Law 87-256; 75 Stat. 527; hereinafter referred to as the Act), and as President of the United States, I find that the delegations set forth in this order are in the interest of the purposes expressed in the said Act and the efficient administration of the programs undertaken pursuant to that Act and determine that the delegates specified in the order are appropriate and I hereby order as follows:

Section 1. Department of State. (a) The following functions conferred upon the President by the Act are hereby delegated to the Secretary of State:

(1) The functions so conferred by Sections 102(a)(1), 102(a)(2)(i), (ii) and (iv), 102(b)(3), (5) and (9), 103, 104(e)(3), and 105(d)(1) and (e) of the Act.

(2) The functions so conferred by Sections 102(a)(2)(iii) and (b)(1), (2), (4), (7), and (8) of the Act (the provisions of Section 2(a) of this order notwithstanding).

(3) The functions so conferred by Section 102(a)(3) of the Act to the extent that they pertain to liquidation of affairs respecting the Universal and International Exhibition of Brussels, 1958.

(4) The functions so conferred by Sections 104(d) and (e)(4) and 108(c) and (d) of the Act to the extent that they pertain to the functions delegated by the foregoing provisions of this section.

(5) The functions so conferred by Section 104(e)(1) of the Act of prescribing rates for per diem in lieu of subsistence; but in carrying out the said function as it relates to functions herein delegated to the Director of the United States Information Agency or the Secretary of Education, the Secretary of State shall consult with them.

(b) The Secretary of State, in collaboration with the Director of the United States Information Agency, the Secretary of Commerce, and the Secretary of Education, with respect to the functions delegated by Sections 2, 3, and 4, respectively, of this order, shall prepare and transmit to the President the reports which the President is required to submit to the Congress by Section 108(b) of the Act, excluding, however, the reports for which the Director of the

United States Information Agency is responsible under section 2(b) of this order.[1]

(c) With respect to the carrying out of functions under Section 102(a)(2)(ii) of the Act hereinabove delegated to the Secretary of State, the Director of the United States Information Agency shall participate in the planning of cultural and other attractions. Such participation shall include consultation in connection with (1) the selection and scheduling of such attractions, and (2) the designation of the areas where the attractions will be presented.

Sec. 2. United States Information Agency. (a)[2] Subject to the provisions of Section 6 of this order, the following functions conferred upon the President by the Act are hereby delegated to the Director of the United States Information Agency:

(1)[3] The functions so conferred by Sections 102(a)(2)(iii) and (b)(1); Section 102(b)(2) to the extent that it authorizes the type of centers now supported by the United States Information Agency abroad and designated as binational, community, or student centers; Section 102(b)(4) exclusive of professorships and lectureships; and Sections 102(b)(7) and (8) of the Act; all of the foregoing notwithstanding the provisions of Section 1(a)(2) of this order.

(2)[3] The functions so conferred by Section 104(e)(4) of the Act (the provisions of Section 1(a)(4) and 3(b) of this order notwithstanding).

(3)[3] The functions so conferred by Section 102(a)(3) of the Act to the extent that they are in respect of fairs, expositions, and demonstrations held outside of the United States, but exclusive of the functions delegated by the provisions of Section 1(a)(3) of this order.

(4)[3] The functions so conferred by Sections 104(d) and 108(c) and (d) of the Act to the extent that they pertain to the functions delegated by the foregoing provisions of this section.

(b)[4] The Director of the United States Information Agency shall prepare and transmit to the President the reports which the President is required to submit to the Congress by section 108(b) of the Act to the extent that they are with respect to activities carried out by the United States Information Agency pursuant to section 102(a)(2)(iii) and section 102(a)(3) of the Act.

Sec. 3. Department of Commerce. Subject to the provisions of Section 6 of this order, the following functions conferred upon the President by the Act are hereby delegated to the Secretary of Commerce:

(a) The functions so conferred by Section 102(a)(3) of the Act to the extent that they are in respect of fairs, expositions, and demonstrations held in the United States.

(b) The functions so conferred by Sections 104(e)(4) and 108(c) of the Act to the extent that they pertain to the functions delegated by the foregoing provisions of this section.

Sec. 4. Department of Education. Subject to the provisions of Section 6 of this order, the functions conferred upon the President by Section 102(b)(6) of the Act are hereby delegated to the Secretary of Education.

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[1] Executive Order No. 11380 (November 8, 1967, 32 F.R. 15627) changed the period following the words "of the Act" to a comma and added all the words following thereafter.

[2] Executive Order No. 11380 inserted the subsection designation (a).

[3] Executive Order No. 11380 changed the former designation of subsecs. (a), (b), (c), and (d) to (1), (2), (3), and (4).

[4] Subsec. (b) was added by Executive Order No. 11380 (November 8, 1967, 32 F.R. 15627).

Sec. 5. Certain incidental matters. (a) In respect of functions hereinabove delegated to them, there is hereby delegated to the Secretary of State, the Director of the United States Information Agency, the Secretary of Commerce, and the Secretary of Education, respectively:

(1) The authority conferred upon the President by Sections 105 (d)(2) and (f) and 106 (d) and (f) of the Act.

(2) Subject to the provisions of Section 5(b) and (c) of this order, the authority conferred upon the President by Section 104(b) of the Act to employ personnel.

(b) The employment, by any department or other executive agency under Section 5(a)(2) of this order, of any of the not to exceed ten persons who may be compensated without regard to the Classification Act of 1949 under Section 104(b) of the Act shall require prior authorization by the Secretary of State concurred in by the Director of the Office of Management and Budget.

(c) Persons employed or assigned by a department or other executive agency for the purpose of performing functions under the Act outside the United States shall be entitled, except in cases in which the period of employment or assignment exceeds thirty months, to the same benefits as are provided by Section 310 of the Foreign Service Act of 1980 (22 U.S.C. 4085).[5] In cases in which the period of employment or assignment exceeds thirty months, persons so employed or assigned shall be entitled to such benefits if agreed by the agency in which such benefits may be exercised.

(d) Pursuant to Section 104(f) of the Act, Executive Order No. 10450 of April 27, 1953 (18 F.R. 2489) is hereby established as the standards and procedures for the employment or assignment to duties of persons under the Act.

(e) Any officer to whom functions vested in the President by the Act are hereinabove delegated may (1) allocate to any other officer of the executive branch of the Government any funds appropriated or otherwise made available for the functions so delegated to him as he may deem appropriate for the best carrying out of the functions and (2) make available, for use in connection with any funds so allocated by him, any authority he has under this order.

Sec. 6. Policy guidance. In order to assure appropriate coordination of programs and taking into account the statutory functions of the departments and other executive agencies concerned, the Secretary of State shall exercise primary responsibility for Government-wide leadership and policy guidance with regard to international educational and cultural affairs.

Sec. 7. Functions reserved to the President. (a) There are hereby excluded from the functions delegated by the provisions of this order the functions conferred upon the President with respect to (1) the delegation of powers under Section 104(a) of the Act, (2) the establishment of standards and procedures for the investigation of personnel under Section 104(f) of the Act, (3) the transfer of appropriations under Section 105(c) of the Act, (4) the appointment of members of the Board of Foreign Scholarships under Section 106(a)(1) of the Act, (5) the appointment of members, the designation of a chairman, and the receipt of recommendations of the United States Advisory Commission on International Educational and Cultural Affairs under Section 106(b) of the Act, (6) the waiver of provisions of law or limitations of authority under Section 108(a) of the Act, and (7) the submission of annual reports to the Congress under Section 108(b) of the Act.

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[5] This reference to sec. 310 of the Foreign Service Act of 1980 was substituted in lieu of a reference to sec. 528 of the Foreign Service Act of 1946 "for persons appointed to the Foreign Service Reserve" by sec. 5 of Executive Order 12292 (February 23, 1981, 46 F.R. 13967).

(b) Notwithstanding the delegations made by this order, the President may in his discretion exercise any function comprehended by such delegations.

Sec. 8. Waivers. (a) It is hereby determined that the performance by any department or other executive agency of functions authorized by Sections 102(a)(2) and 102(a)(3) of the Act (22 U.S.C. 2452(a)(2) and (3)) without regard to prohibitions and limitations of authority contained in the following specified provisions of law is in furtherance of the purposes of the Act:

(1) Section 15 of the Administrative Expenses Act of 1946 (c. 744, August 2, 1946; 60 Stat. 810), as amended (5 U.S.C. 3109) (experts and consultants); but the compensation paid individuals in pursuance of this paragraph shall not exceed the rate of $100.00 per diem.

(2) Section 16(a) of the Administrative Expenses Act of 1946 (c. 744, August 2, 1946; 60 Stat. 810; 31 U.S.C. 638a) to the extent that it pertains to hiring automobiles and aircraft.

(3) Section 3648 of the Revised Statutes, as amended (31 U.S.C. 529) (advance of funds).

(4) Section 322 of the Act of June 30, 1932, c. 314, 47 Stat. 412 (40 U.S.C. 278a) (maximum charges).

(5) Section 3709 of the Revised Statutes, as amended (41 U.S.C. 5) (competitive bids).

(6) Section 3710 of the Revised Statutes (41 U.S.C. 8) (opening of bids).

(7) Section 2 of the Act of March 3, 1933, c. 212, 47 Stat. 1520 (41 U.S.C. 10a) (Buy American Act).

(8) Section 3735 of the Revised Statutes (41 U.S.C. 13) (contracts limited to one year).

(9) Sections 302–305 of the Federal Property and Administrative Services Act of 1949 (June 30, 1949, c. 288, 63 Stat. 393 et seq.), as amended (41 U.S.C. 252–255) (competitive bids; negotiated contracts; advances).

(10) Section 87 of the Act of January 12, 1895, c. 23, 28 Stat. 622, and the second proviso of Section 11 of the Act of March 1, 1919, c. 86, 40 Stat. 1270, as amended (44 U.S.C. 111) to the extent that they pertain to printing by the Government Printing Office.

(11) Section 1 of the Act of June 20, 1878, c. 359, 20 Stat. 216, as amended (44 U.S.C. 322) (advertising).

(12) Section 3828 of the Revised Statutes (44 U.S.C. 324) (advertising).

(13) Section 901(a) of the Merchant Marine Act, 1936 (June 29, 1936, c. 858, 49 Stat. 2015, as amended; 46 U.S.C. 1241(a)) (official travel overseas of United States officers and employ-

ees, and transportation of their personal effects, on ships registered under the laws of the United States).

(14) Any provision of law or limitation of authority to the extent that such provision or limitation would limit or prohibit construction of buildings by the United States on property not owned by it.

(15) [6] Any provision of law or limitation of authority to the extent that such provision or limitation would limit or prohibit (i) receipt of admission fees or payments under contracts through advances or otherwise, for concessions, services, space, or other consideration, and the credit of such receipts to the applicable appropriation, and (ii) rental or lease for periods not exceeding ten years of buildings and grounds.

(b) It is directed (1) that all waivers of statutes and limitations of authority effected by the foregoing provisions of this section shall be utilized in a prudent manner and as sparingly as may be practical, and (2) that suitable steps should be taken by the administrative agencies concerned to insure that result, including, as may be appropriate, the imposition of administrative limitations in lieu of waived statutory requirements and limitations of authority.

Sec. 9. Definition. As used in this order, the word "function" or "functions" includes any duty, obligation, power, authority, responsibility, right, privilege, discretion, or activity.

Sec. 10. References to orders and acts. Except as may for any reason be inappropriate:

(a) References in this order to the Act or any provision of the Act shall be deemed to include references thereto as amended from time to time.

(b) References in this order to any prior Executive order not superseded by this order shall be deemed to include references thereto as amended from time to time.

(c) [7] References in this order shall be deemed to include references thereto as amended from time to time.

Sec. 11. Prior directives and actions. (a) This order supersedes Executive Order No. 10716 of June 17, 1957, and Executive Order No. 10912 of January 18, 1961. Except to the extent that they may be inconsistent with law or with this order, other directives, regulations, and actions relating to the functions delegated by this order and in force immediately prior to the issuance of this order shall remain in effect until amended, modified, or revoked by appropriate authority.

(b) This order shall neither limit nor be limited by Executive Order No. 11014 of April 17, 1962.

(c) To the extent not heretofore superseded, there are hereby superseded the provisions of the letters of the President to the Director of the United States Information Agency dated August 16, 1955, and August 21, 1956 (22 F.R. 101-103).

Sec. 12. Effective date. The provisions of this order shall be effective immediately.

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[6] Subparagraph (15) was added by Executive Order 11380 (November 8, 1967, 32 F.R. 15627).

[7] Subsec. (c) was added by Executive Order 11380 (November 8, 1967, 32 F.R. 15627).

3. United States Scholarship Program for Developing Countries Authorization, Fiscal Years 1986 and 1987

Partial text of Public Law 99-93 [H.R. 2068], 99 Stat. 405, approved August 16, 1985

> NOTE.—Sections in this Act amend other State Department and foreign relations legislation and are incorporated elsewhere in this compilation.

AN ACT To authorize appropriations for fiscal years 1986 and 1987 for the Department of State, the United States Information Agency, the Board for International Broadcasting, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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TITLE VI—UNITED STATES SCHOLARSHIP PROGRAM FOR DEVELOPING COUNTRIES

SEC. 601.[1] STATEMENT OF PURPOSE.

The purpose of this title is to establish an undergraduate scholarship program designed to bring students of limited financial means from developing countries to the United States for study at United States institutions of higher education.

SEC. 602.[2] FINDINGS AND DECLARATIONS OF POLICY.

The Congress finds and declares that—

(1) it is in the national interest for the United States Government to provide a stable source of financial support to give students in developing countries the opportunity to study in the United States, in order to improve the range and quality of educational alternatives, increase mutual understanding, and build lasting links between those countries and the United States;

(2) providing scholarships to foreign students to study in the United States has proven over time to be an effective means of creating strong bonds between the United States and the future leadership of developing countries and, at the same time, assists countries substantially in their development efforts;

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[1] 22 U.S.C. 4701.
[2] 22 U.S.C. 4702.

(3) study in United States institutions by foreign students enhances trade and economic relationships by providing strong English language skills and establishing professional and business contacts;

(4) students from families of limited financial means have, in the past, largely not had the opportunity to study in the United States, and scholarship programs sponsored by the United States have made no provision for identifying preparing, or supporting such students for study in the United States;

(5) it is essential that the United States citizenry develop its knowledge and understanding of the developing countries and their languages, cultures, and socioeconomic composition as these areas assume an ever larger role in the world community;

(6) the number of United States Government-sponsored scholarships for students in developing countries has been exceeded as much as twelve times in a given year by the number of scholarships offered by Soviet-bloc governments to students in developing countries, and this disparity entails the serious long-run cost of having so many of the potential future leaders of the developing world educated in Soviet-bloc countries;

(7) from 1972 through 1982 the Soviet Union and Eastern European governments collectively increased their education exchange programs to Latin America and the Caribbean by 205 percent while those of the United States declined by 52 percent;

(8) an undergraduate scholarship program for students of limited financial means from developing countries to study in the United States would complement current assistance efforts in the areas of advanced education and training of people of developing countries in such disciplines as are required for planning and implementation of public and private development activities;

(9) the National Bipartisan Commission on Central America has recommended a program of 10,000 United States Government-sponsored scholarships to bring Central American students to the United States, which program would involve careful targeting to encourage participation by young people from all social and economic classes, would maintain existing admission standards by providing intensive English and other training, and would encourage graduates to return to their home countries after completing their education; and

(10) it is also in the interest of the United States, as well as peaceful cooperation in the Western Hemisphere, that particular attention be given to the students of the Caribbean region.

SEC. 603.[3] SCHOLARSHIP PROGRAM AUTHORITY.

(a) IN GENERAL.—The President, acting through the United States Information Agency, shall provide scholarships (including partial assistance) for undergraduate study at United States institutions of higher education by citizens and nationals of developing countries who have completed their secondary education and who would not otherwise have an opportunity to study in the United States due to financial limitations.

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[3] 22 U.S. 4703.

(b) Form of Scholarship; Forgiveness of Loan Repayment.—To encourage students to use their training in their countries of origin each scholarship pursuant to this section shall be in the form of a loan with all repayment to be forgiven upon the student's prompt return to his or her country or origin for a period which is at least one year longer than the period spent studying in the United States. If the student is granted asylum in the United States pursuant to section 208 of the Immigration and Nationality Act or is admitted to the United States as a refugee pursuant to section 207 of that Act, half of the repayment shall be forgiven.

(c) Consultation.—Before allocation any of the funds made available to carry out this title, the President shall consult with United States institutions of higher education, educational exchange organizations, United States missions in developing countries, and the governments of participating countries on how to implement the guidelines specified in section 604.

(d) Definition.—For purposes of this title, the term "institution of higher education" has the same meaning as given to such term by section 1201(a) of the Higher Education Act of 1965.

SEC. 604.[4] GUIDELINES.

The scholarship program under this title shall be carried out in accordance with the following guidelines:

(1) Consistent with section 112(b) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2460(b)), all programs created pursuant to this title shall be nonpolitical and balanced, and shall be administered in keeping with the highest standards of academic integrity.

(2) United States missions shall design ways to identify promising students who are in secondary educational institutions, or who have completed their secondary education, for study in the United States. In carrying out this paragraph, the United States mission in a country shall consult with Peace Corps volunteers and staff assigned to that country and with private and voluntary organizations with a proven record of providing development assistance to developing countries.

(3) United States missions shall develop and strictly implement specific economic need criteria. Scholarships under this title may only be provided to students who meet the economic need criteria.

(4) The program shall utilize educational institutions in the United States and in developing countries to help participants in the programs acquire necessary skills in English and other appropriate education training.

(5) Each participant from a developing country shall be selected on the basis of academic and leadership potential and the economic, political, and social development needs of such country. Such needs shall be determined by each United States mission in consultation with the government of the respective country. Scholarship opportunities shall emphasize fields that

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[4] 22 U.S.C. 4704.

are critical to the development of the participant's country, including agriculture, civil engineering, communications, social science, education, public and business administration, health, nutrition, environmental studies, population and family planning, and energy.

(6) The program shall be flexible in order to take advantage of different training and educational opportunities offered by universities, postsecondary vocational training schools, and community colleges in the United States.

(7) The program shall be flexible with respect to the number of years of undergraduate education financed but in no case shall students be brought to the United States for a period less than one year.

(8) Adequate allowance shall be made in the scholarship for the purchase of books and related educational material relevant to the program of study.

(9) Further allowance shall be made to provide adequate opportunities for professional, academic, and cultural enrichment for scholarship recipients.

(10) The program shall, to the maximum extent practicable, offer equal opportunities for both male and female students to study in the United States.

(11) The United States Information Agency shall recommend to each student, who receives a scholarship under this title for study at a college or university, that the student enroll in a course on the classics of American political thought or which otherwise emphasizes the ideas, principles, and documents upon which the United States was founded.

SEC. 605. AUTHORITY TO ENTER INTO AGREEMENTS.

The President may enter into agreements with foreign governments in furtherance of the purposes of this title. Such agreements may provide for the creation or continuation of binational or multinational educational and cultural foundations and commissions for the purposes of administering programs under this title.

SEC. 606.[5] POLICY REGARDING OTHER INTERNATIONAL EDUCATIONAL PROGRAMS.

(a) AID-FUNDED PROGRAMS.—The Congress urges the administrator of the agency primarily responsible for administering part I of the Foreign Assistance Act of 1961, in implementing programs authorized under that part, to increase assistance for undergraduate scholarships for students of limited financial means from developing countries to study in the United States at United States institutions of higher education. To the maximum extent practicable, such scholarship assistance shall be furnished in accordance with the guidelines contained in section 604 of this title.

(b) USIA-FUNDED POSTGRADUATE STUDY IN THE UNITED STATES.—The Congress urges the Director of the United States Information Agency to expand opportunities for students of limited financial means from developing countries to receive financial assistance for postgraduate study at United States institutions of higher education.

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[5] 22 U.S.C. 4706.

(c) Study by Americans in Developing Countries.—The Congress urges the President to take such steps as are necessary to expand the opportunities for Americans from all economic classes to study in developing countries.

SEC. 607.[6] ESTABLISHMENT AND MAINTENANCE OF COUNSELING SERVICES.

(a) Counseling Services Abroad.—For the purpose of assisting foreign students in choosing fields of study, selecting appropriate institutions of higher education, and preparing for their stay in the United States, the President may make suitable arrangements for counseling and orientation services abroad.

(b) Counseling Services in the United States.—For the purposes of assisting foreign students in making the best use of their opportunities while attending United States institutions of higher education, and assisting such students in directing their talents and initiative into channels which will make them more effective leaders upon return to their native lands, the President may make suitable arrangements (by contract or otherwise) for the establishment and maintenance of adequate counseling services at United States institutions of higher education which are attended by foreign students.

SEC. 608.[7] BOARD OF FOREIGN SCHOLARSHIPS.

The Board of Foreign Scholarships shall advise and assist the President in the discharge of the scholarship program carried out pursuant to this title, in accordance with the guidelines set forth in section 604. The President may provide for such additional secretarial and staff assistance for the board as may by required to carry out this title.

SEC. 609.[8] GENERAL AUTHORITIES.

(a) Public and Private Sector Contributions.—The public and private sectors in the United States and in the developing countries shall be encouraged to contribute to the costs of the scholarship program financed under this title.

(b) Utilization of Returning Program Participants.—The President shall seek to engage the public and private sectors of developing countries in programs to maximize the utilization of recipients of scholarships under this title upon their return to their own countries.

(c) Promotion Abroad of Scholarship Program.—The President may provide for publicity and promotion abroad of the scholarship program provided for in this title.

(d) Increasing United States Understanding of Developing Countries.—The President shall encourage United States institutions of higher education, which are attended by students from developing countries who receive scholarships under this title, to provide opportunities for United States citizens attending those institutions to develop their knowledge and understanding of the developing countries, and the languages and cultures of those countries, represented by those foreign students.

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[6] 22 U.S.C. 4707.
[7] 22 U.S.C. 4708.
[8] 22 U.S.C. 4709.

(e) OTHER ACTIVITIES TO PROMOTE IMPROVED UNDERSTANDING.—Funds allocated by the United States Information Agency, or the agency primarily responsible for carrying out part I of the Foreign Assistance Act of 1961, for scholarships in accordance with this title shall be available to enhance the educational training and capabilities of the people of Latin America and the Caribbean and to promote better understanding between the United States and Latin America and the Caribbean through programs of cooperation, study, training, and research. Such funds may be used for program and administrative costs for institutions carrying out such programs.

SEC. 610.[9] ENGLISH TEACHING, TEXTBOOKS, AND OTHER TEACHING MATERIALS.

Wherever adequate facilities or materials are not available to carry out the purposes of paragraph (4) of section 604 in the participant's country and the President determines that the purposes of this title are best served by providing the preliminary training in the participant's country, the President may (by purchase, contract, or other appropriate means) provide the necessary materials and instructors to achieve such purpose.

SEC. 611.[10] REPORTING REQUIREMENT.

No later than February 1 each year, the President shall submit to the Congress a report on the activities carried on and expenditures made pursuant to this title during the preceding fiscal year.

SEC. 612.[11] FUNDING OF SCHOLARSHIPS FOR FISCAL YEAR 1986 AND FISCAL YEAR 1987.

(a) CENTRAL AMERICAN UNDERGRADUATE SCHOLARSHIP PROGRAM.—The undergraduate scholarship program financed by the United States Information Agency for students from Central America for fiscal year 1986 and fiscal year 1987 shall be conducted in accordance with this title.

(b) SCHOLARSHIPS FOR STUDENTS FROM OTHER DEVELOPING COUNTRIES.—Any funds appropriated to the United States Information Agency for fiscal year 1986 or fiscal year 1987 for any purpose (other than funds appropriated for educational exchange programs under section 102(a)(1) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2452(a)(1)) may be used to carry out this title with respect to students from developing countries outside Central America.

SEC. 613.[12] LATIN AMERICAN EXCHANGES.

Of any funds authorized to be appropriated for activities authorized by this title, not less than 25 percent shall be allocated to fund grants and exchanges to Latin America and the Caribbean.

SEC. 614.[13] FEASIBILITY STUDY OF TRAINING PROGRAMS IN SIZABLE HISPANIC POPULATIONS.

No later than December 15, 1985, the Director of the United States Information Agency and the Administrator of the Agency for International Development shall report jointly, to the chairman of the Committee on Foreign Relations of the Senate and the chairman of the Committee on Foreign Affairs of the House of Representatives, on the feasibility of greater utilization in those two agencies' scholarship and participant training programs of the United States universities in States bordering Latin America and Caribbean which are located in areas characterized by the presence of sizable Hispanic populations.

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[9] 22 U.S.C. 4710.

[10] 22 U.S.C. 4711.

[11] 22 U.S.C. 4712.

[12] 22 U.S.C. 4713.

[13] 22 U.S.C. 4714.

SEC. 615.[14] COMPLIANCE WITH CONGRESSIONAL BUDGET ACT.

Any authority provided by this title to enter into contracts shall be effective only—

(1) to the extent that the budget authority for the obligation to make outlays, which is created by the contract, has been provided in advance by an appropriation Act; or

(2) to the extent or in such amounts as are provided in advance in appropriation Acts.

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[14] 22 U.S.C. 4715.

4. National Endowment for Democracy Act

Partial text of Public Law 98-164 [H.R. 2915], 97 Stat. 1017 at 1039, approved November 22, 1983, as amended by Public Law 99-93 [H.R. 2068], 99 Stat. 405, approved August 16, 1985; and by Public Law 100-204 [H.R. 1777], 101 Stat. 1331, approved December 22, 1987

AN ACT To authorize appropriations for fiscal years 1984 and 1985 for the Department of State, the United States Information Agency, the Board for International Broadcasting, the Inter-American Foundation, and the Asia Foundation, to establish the National Endowment for Democracy, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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TITLE V—NATIONAL ENDOWMENT FOR DEMOCRACY

SHORT TITLE

Sec. 501. This title may be cited as the "National Endowment for Democracy Act".

NATIONAL ENDOWMENT FOR DEMOCRACY

Sec. 502. [1] (a) The Congress finds that there has been established in the District of Columbia a private, nonprofit corporation known as the National Endowment for Democracy (hereafter in this title referred to as the "Endowment") which is not an agency or establishment of the United States Government.

(b) The purposes of the Endowment, as set forth in its articles of incorporation, are—

(1) to encourage free and democratic institutions throughout the world through private sector initiatives, including activities which promote the individual rights and freedoms (including internationally recognized human rights) which are essential to the functioning of democratic institutions;

(2) to facilitate exchanges between United States private sector groups (especially the two major American political parties, labor, and business) and democratic groups abroad;

(3) to promote United States nongovernmental participation (especially through the two major American political parties,

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[1] 22 U.S.C. 4411. Sec. 210 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204, 101 Stat. 1375) authorized to be appropriated to USIA for fiscal year 1988: $17,500,000, and for fiscal year 1989: $18,100,000. For text, see page 621.

Title V of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1988 (sec. 101(a) of the Continuing Appropriations for 1988, Public Law 100-202, 101 Stat. 1329) appropriated $16,875,000 for the National Endowment for Democracy for fiscal year 1988.

Title V of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1989 (Public Law 100-459, 102 Stat. 2222) appropriated $15,800,000 for fiscal year 1989.

labor, business, and other private sector groups) in democratic training programs and democratic institution-building abroad;

(4) to strengthen democratic electoral processes abroad through timely measures in cooperation with indigenous democratic forces;

(5) to support the participation of the two major American political parties, labor, business, and other United States private sector groups in fostering cooperation with those abroad dedicated to the cultural values, institutions, and organizations of democratic pluralism; and

(6) to encourage the establishment and growth of democratic development in a manner consistent both with the broad concerns of United States national interests and with the specific requirements of the democratic groups in other countries which are aided by programs funded by the Endowment.

GRANTS TO THE ENDOWMENT

Sec. 503.[2] (a) The Director of the United States Information Agency shall make an annual grant to the Endowment to enable the Endowment to carry out its purposes as specified in section 502(b). Such grants shall be made with funds specifically appropriated for grants to the Endowment or with funds appropriated to the Agency for the "Salaries and Expenses" account. Such grants shall be made pursuant to a grant agreement between the Director and the Endowment which requires that grant funds will only be used for activities which the Board of Directors of the Endowment determines are consistent with the purposes described in section 502(b), that the Endowment will allocate funds in accordance with subsection (e) of this section, and that the Endowment will otherwise comply with the requirements of this title. The grant agreement may not require the Endowment to comply with requirements other than those specified in this title.

(b) Funds so granted may be used by the Endowment to carry out the purposes described in section 502(b), and otherwise applicable limitations on the purposes for which funds appropriated to the United States Information Agency may be used shall not apply to funds granted to the Endowment.

(c) Nothing in this title shall be construed to make the Endowment an agency or establishment of the United States Government or to make the members of the Board of Directors of the Endowment, or the officers or employees of the Endowment, officers or employees of the United States.

(d) The Endowment and its grantees shall be subject to the appropriate oversight procedures of the Congress.

(e) Of the amounts made available to the Endowment for each of the fiscal years 1984 and 1985 to carry out programs in furtherance of the purposes of this Act—

(1) not less than $13,800,000 shall be for the Free Trade Union Institute; and

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[2] 22 U.S.C. 4412.

(2) not less than $2,500,000 shall be to support private enterprise development programs of the National Chamber Foundation.

(f)[3] Nothing in this title shall preclude the Endowment from making grants to independent labor unions.

ELIGIBILITY OF THE ENDOWMENT FOR GRANTS

Sec. 504.[4] (a) Grants may be made to the Endowment under this title only if the Endowment agrees to comply with the requirements specified in this section and elsewhere in this title.

(b)(1) The Endowment may only provide funding for programs of private sector groups and may not carry out programs directly.

(2) The Endowment may provide funding only for programs which are consistent with the purposes set forth in section 502(b).

(c)(1) Officers of the Endowment may not receive any salary or other compensation from any source, other than the Endowment, for services rendered during the period of their employment by the Endowment.

(2) If an individual who is an officer or employee of the United States Government serves as a member of the Board of Directors or as an officer or employee of the Endowment, that individual may not receive any compensation or travel expenses in connection with services performed for the Endowment.

(d)(1) The Endowment shall not issue any shares of stock or declare or pay any dividends.

(2) No part of the assets of the Endowment shall inure to the benefit of any member of the Board, any officer or employee of the Endowment, or any other individual, except as salary or reasonable compensation for services.

(e)(1) The accounts of the Endowment shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants or independent licensed public accountants certified or licensed by a regulatory authority of a State or other political subdivision of the United States. The audits shall be conducted at the place or places where the accounts of the Endowment are normally kept. All books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Endowment and necessary to facilitate the audits shall be made available to the person or persons conducting the audits; and full facilities for verifying transactions with any assets held by depositories, fiscal agents, and custodians shall be afforded to such person or persons.

(2) The report of each such independent audit shall be included in the annual report required by subsection (h). The audit report shall set forth the scope of the audit and include such statements as are necessary to present fairly the Endowment's assets and liabilities, surplus or deficit, with an analysis of the changes therein during the year, supplemented in reasonable detail by a statement of the Endowment's income and expenses during the year, and a

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[3] Subsec. (f) was added by sec. 212 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204, 101 Stat. 1376).

[4] 22 U.S.C. 4413.

statement of the application of funds, together with the independent auditor's opinion of those statements.

(f)(1) The financial transactions of the Endowment for each fiscal year may be audited by the General Accounting Office in accordance with such principles and procedures and under such rules and regulations as may be prescribed by the Comptroller General of the United States. Any such audit shall be conducted at the place or places where accounts of the Endowment are normally kept. The representatives of the General Accounting Office shall have access to all books, accounts, records, reports, files, and all other papers, things, or property belonging to or in use by the Endowment pertaining to its financial transactions and necessary to facilitate the audit; and they shall be afforded full facilities for verifying transactions with any assets held by depositories, fiscal agents, and custodians. All such books, accounts, records, reports, files, papers, and property of the Endowment shall remain in the possession and custody of the Endowment.

(2) A report of each such audit shall be made by the Comptroller General to the Congress. The report to the Congress shall contain such comments and information as the Comptroller General may deem necessary to inform the Congress of the financial operations and condition of the Endowment, together with such recommendations with respect thereto as he may deem advisable. The report shall also show specifically any program, expenditure, or other financial transaction or undertaking observed in the course of the audit, which, in the opinion of the Comptroller General, has been carried on or made contrary to the requirements of this title. A copy of each report shall be furnished to the President and to the Endowment at the time submitted to the Congress.

(g) [5] The financial transactions of the Endowment for each fiscal year may also be audited by the United States Information Agency under the conditions set forth in subsection (f)(1).

(h)(1) [6] The Endowment shall ensure that each recipient of assistance provided through the Endowment under this title keeps separate accounts with respect to such assistance and such records as may be reasonably necessary to fully disclose the amount and the disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit. [7]

(2) The Endowment shall ensure that it, or any of its duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance provided through the Endowment under this title. The Comptroller General of the

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[5] Subsec. (g) was added by subsec. (b)(2) of sec. 210 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99-93, 99 Stat. 405.)

[6] Subsec. (b)(1) of sec. 210 of Public Law 99-93 (99 Stat. 405 at 432), redesignated subsecs. (g) and (h) as subsecs. (h) and (i), respectively.

[7] The phrase "separate accounts with respect to such assistance" was added by sec. 211 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204, 101 Stat. 1376).

United States or any of his duly authorized representatives shall also have access thereto for such purpose.

(i)[6] Not later than February 31 of each year, the Endowment shall submit an annual report for the preceding fiscal year to the President for transmittal to the Congress.[8] The report shall include a comprehensive and detailed report of the Endowment's operations, activities, financial condition, and accomplishments under this title and may include such recommendations as the Endowment deems appropriate. The Board members and officers of the Endowment shall be available to testify before appropriate committees of the Congress with respect to such report, the report of any audit made by the Comptroller General pursuant to subsection (f), or any other matter which any such committee may determine.

SEC. 505.[9] REQUIREMENTS RELATING TO THE ENDOWMENT AND ITS GRANTEES.

(a) Partisan Politics.—(1) Funds may not be expended, either by the Endowment or by any of its grantees, to finance the campaigns of candidates for public office.

(2) No funds granted by the Endowment may be used to finance activities of the Republican National Committee or the Democratic National Committee.

(3) No grants may be made to any institute, foundation, or organization engaged in partisan activities on behalf of the Republican or Democratic National Committee, on behalf of any candidate for public office, or on behalf of any political party in the United States.

(b) Consultation With Department of State.—The Endowment shall consult with the Department of State on any overseas program funded by the Endowment prior to the commencement of the activities of that program.

SEC. 506.[10] FREEDOM OF INFORMATION.

(a) Compliance With Freedom of Information Act.—Notwithstanding the fact that the Endowment is not an agency or establishment of the United States Government, the Endowment shall fully comply with all of the provisions of section 552 of title 5, United States Code.

(b) Publication in Federal Register.—For purposes of complying pursuant to subsection (a) with section 552(a)(1) of such title, the Endowment shall make available to the Director of the United States Information Agency such records and other information as the Director determines may be necessary for such purposes. The Director shall cause such records and other information to be published in the Federal Register.

(c) Review by USIA.—(1) In the event that the Endowment determines not to comply with a request for records under section 552, the Endowment shall submit a report to the Director of the United

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[8] Subsec. (d) of sec. 210 of Public Law 99-93 (99 Stat. 405 at 432), substituted "February 1" in lieu of "December 31".

[9] 22 U.S.C. 4414. Sec. 505 was added by sec. 210(a) of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99-93, 99 Stat. 405).

[10] 22 U.S.C. 4415. Sec. 506 was added by sec. 210(a) of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99-93, 99 Stat. 405).

States Information Agency explaining the reasons for not complying with such request.

(2) If the Director approves the determination not to comply with such request, the United States Information Agency shall assume full responsibility, including financial responsibility, for defending the Endowment in any litigation relating to such request.

(3) If the Director disapproves the determination not to comply with such request, the Endowment shall comply with such request.

5. Soviet-Eastern European Education and Training Programs

a. Soviet-Eastern European Research and Training Act of 1983

Partial text of Public Law 98-164 [H.R. 2915], 97 Stat. 1017 at 1047, approved November 22, 1983

AN ACT To authorize appropriations for fiscal years 1984 and 1985 for the Department of State, the United States Information Agency, the Board for International Broadcasting, the Inter-American Foundation, and the Asia Foundation, to establish the National Endowment for Democracy, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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TITLE VIII—SOVIET-EASTERN EUROPEAN RESEARCH AND TRAINING

SHORT TITLE

Sec. 801. This title may be cited as the "Soviet-Eastern European Research and Training Act of 1983".

FINDINGS AND DECLARATIONS

Sec. 802.[1] The Congress finds and declares that—

(1) factual knowledge, independently verified, about the Soviet Union and Eastern European countries is of the utmost importance for the national security of the United States, for the furtherance of our national interests in the conduct of foreign relations, and for the prudent management of our domestic affairs;

(2) the development and maintenance of knowledge about the Soviet Union and Eastern European countries depends upon the national capability for advanced research by highly trained and experienced specialists, available for service in and out of Government;

(3) certain essential functions are necessary to ensure the existence of that knowledge and the capability to sustain it, including—

(A) graduate training;

(B) advanced research;

(C) public dissemination of research data, methods, and findings;

(D) contact and collaboration among Government and private specialists; and

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[1] 22 U.S.C. 4501.

(E) firsthand experience of the Soviet Union and Eastern European countries by American specialists, including on site conduct of advanced training and research to the extent practicable; and

(4) it is in the national interest for the United States Government to provide a stable source of financial support for the functions described in this section and to supplement the financial support for those functions which is currently being furnished by Federal, State, local regional, and private agencies, organizations, and individuals, and thereby to stabilize the conduct of these functions on a national scale, consistently, and on a long range unclassified basis.

DEFINITIONS

Sec. 803.[2] As used in this title—

(1) the term "institution of higher education" has the same meaning given such term in section 1201(a) of the Higher Education Act of 1965; and

(2) the term "Advisory Committee" means the Soviet-Eastern European Studies Advisory Committee established by section 804(a).

ESTABLISHMENT OF THE SOVIET-EASTERN EUROPEAN STUDIES ADVISORY COMMITTEE

Sec. 804.[3] (a) There is established within the Department of State the Soviet-Eastern European Studies Advisory Committee which shall be composed of the Secretary of State, the Secretary of Defense, the Secretary of Education, the Librarian of Congress, the President of the American Association for the Advancement of Slavic Studies, and the President of the Association of American Universities. The Secretary of State shall be the Chairman.[4]

(b) The Advisory Committee shall meet at the call of the Chairman and shall hold at least one meeting each year. Three members of the Advisory Committee shall constitute a quorum.

(c) The Secretary of State may detail personnel of the Department of State to provide technical and clerical assistance to the Advisory Committee in carrying out its functions under this title.

(d) The Advisory Committee shall recommend grant policies for the advancement of the objectives of this title. In proposing recipients for grants under this title, the Advisory Committee shall give the highest priority to national organizations with an interest and expertise in conducting research and training concerning Soviet and Eastern European countries and in disseminating the results of such research. In making its recommendations, the Advisory Committee shall emphasize the development of a stable, long-term research program.

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[2] 22 U.S.C. 4502.

[3] 22 U.S.C. 4503.

[4] The functions of the Chairman conferred upon the Secretary of State by this section were delegated to the Director of the Bureau of Intelligence and Research, pursuant to State Department Delegation of Authority No. 155 (September 21, 1984, 49 F.R. 39002).

AUTHORITY TO MAKE PAYMENTS

Sec. 805.[5] (a) The Secretary of State, after consultation with the Advisory Committee, shall make payments, in accordance with the provisions of this section, out of funds made available to carry out this title.[6]

(b)(1) One part of the payments made in each fiscal year shall be used to conduct a national research program at the postdoctoral or equivalent level, such program to include—

(A) the dissemination of information about the research program and the solicitation of proposals for research contracts from American institutions of higher education and not-for-profit corporations, such contracts to contain shared-cost provisions; and

(B) the awarding of contracts for such research projects as the respective institution determines will best serve to carry out the purposes of this title after reviewing proposals submitted under subparagraph (A).

(2) One part of the payments made in each fiscal year shall be used—

(A) to establish and carry out a program of graduate, postdoctoral, and teaching fellowships for advanced training in Soviet and Eastern European studies and related studies, such program—

(i) to be coordinated with the research program described in paragraph (1);

(ii) to be conducted, on a shared-cost basis, at American institutions of higher education; and

(iii) to include—

(I) the dissemination of information on the fellowship program and the solicitation of applications for fellowships from qualified institutions of higher education and qualified individuals; and

(II) the awarding of such fellowships as the respective institution determines will best serve to carry out the purposes of this title after reviewing applications submitted under subclause (I); and

(B) to disseminate research, data, and findings on Soviet and Eastern European studies and related fields in such a manner and to such extent as the respective institution determines will best serve to carry out the purposes of this title.

(3) One part of the payments made in each fiscal year shall be used—

(A) to provide fellowship and research support for American specialists in the fields of Soviet and Eastern European studies and related studies to conduct advanced research with particular emphasis upon the use of data on the Soviet Union and Eastern European countries; and

(B) to conduct seminars, conferences, and other similar workshops designed to facilitate research collaboration between

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[5] 22 U.S.C. 4504.

[6] The functions of making payments conferred upon the Secretary of State by this subsec. were delegated to the Director of the Bureau of Intelligence and Research, pursuant to State Department Delegation of Authority No. 155 (September 21, 1984, 49 F.R. 39002).

Government and private specialists in the fields of Soviet and East European studies and related studies.

(4) One part of the payments made in each fiscal year shall be used to conduct specialized programs in advanced training and research on a reciprocal basis in the Union of Soviet Socialist Republics and the countries of Eastern Europe designed to facilitate access for American specialists to research institutes, personnel, archives, documentation, and other research and training resources located in the Union of Soviet Socialist Republics and Eastern European countries.

(5) One part of the payments made in each fiscal year shall be used to support language training in Russian and Eastern European languages. Such payments shall include grants to individuals to pursue such training and to summer language institutes operated by institutions of higher education. Preference shall be given for Russian language studies.

(6) Payments may be made to carry out other research and training in Soviet and Eastern European studies not otherwise described in this section.

APPLICATIONS; PAYMENTS TO ELIGIBLE ORGANIZATIONS

Sec. 806.[7] (a) Any institution seeking funding under this title shall prepare and submit an application to the Secretary of State once each fiscal year. Each such application shall—

(1) provide a description of the purposes for which the payments will be used in accordance with section 805; and

(2) provide such fiscal control and such accounting procedures as may be necessary (A) to ensure a proper accounting of Federal funds paid under this title, and (B) to ensure the verification of the costs of the continuing deduction and research programs conducted under this title.

(b) Payments under this title may be made in installments, in advance, or by way of reimbursement, with necessary adjustments on account of overpayments and underpayments.

REPORT

Sec. 807.[8] The Secretary of State shall prepare and submit to the President and the Congress at the end of each fiscal year in which an institution receives assistance under this title a report of the activities of such institution supported by such assistance, if the administrative expenses of such institution which are covered by such assistance represent more than 10 percent of such assistance, together with such recommendations as the Advisory Committee deems advisable.

FEDERAL CONTROL OF EDUCATION PROHIBITED

Sec. 808.[9] Nothing contained in this title may be construed to authorize any department, agency, officer, or employee of the United

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[7] 22 U.S.C. 4505.

[8] 22 U.S.C. 4506.

[9] 22 U.S.C. 4507.

States to exercise any direction, supervision, or control over the curriculum, program of instruction or research, administration, or personnel of any educational institution.

ALLOCATION OF FUNDS

Sec. 809.[10] Of the funds authorized to be appropriated by section 102(1) of this Act—[11]

(1) up to $5,000,000 for the fiscal year 1984 shall be available to carry out this title; and

(2) $5,000,000 for the fiscal year 1985 shall be available only to carry out this title.

TERMINATION

Sec. 810.[12] The provisions of this title shall cease to be effective at the end of the 10-year period beginning on the date of enactment of this title.

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[10] 22 U.S.C. 4508.

[11] Sec. 102(1) authorized funds for "Administration of foreign affairs" within the Department of State for fiscal years 1984 and 1985. Authorizations for "Soviet-East European Research and Training" in following years appeared in State Department Authorization Acts for those years.

[12] 22 U.S.C. 4509.

b. Fascell Fellowship Act

Partial text of Public Law 99-399 [Omnibus Diplomatic Security and Anti-Terrorism Act of 1986, H.R. 4151], 100 Stat. 853, approved August 27, 1986; as amended by Public Law 99-529 [Special Foreign Assistance Act of 1986, S. 1917], 100 Stat. 3010, approved October 24, 1986; and by Public Law 100-204 [Foreign Relations Authorization Act, Fiscal Years 1988 and 1989; H.R. 1777], 101 Stat. 1331, approved December 22, 1987

AN ACT To provide enhanced diplomatic security and combat international terrorism, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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TITLE X—FASCELL FELLOWSHIP PROGRAM

SEC. 1001. SHORT TITLE.

This title may be cited as the "Fascell Fellowship Act."

SEC. 1002.[1] FELLOWSHIP PROGRAM FOR TEMPORARY SERVICE AT UNITED STATES MISSIONS IN THE SOVIET UNION AND EASTERN EUROPE.

(a) ESTABLISHMENT.—There is hereby established a fellowship program pursuant to which the Secretary of State will provide fellowships to United States citizens while they serve, for a period of between one and two years, in positions formerly held by foreign national employees at United States diplomatic or consular missions in the Soviet Union or Eastern European countries.

(b) DESIGNATION OF FELLOWSHIPS.—Fellowships under this title shall be known as "Fascell Fellowships."

(c) PURPOSE OF THE FELLOWSHIPS.—Fellowships under this title shall be provided in order to allow the recipient (hereafter in this title referred to as a "Fellow") to serve on a short-term basis at a United States diplomatic or consular mission in the Soviet Union or an Eastern European country in order to obtain first hand exposure to that country, including (as appropriate) independent study in Soviet or Eastern European area studies or languages.

(d) INDIVIDUALS WHO MAY RECEIVE A FELLOWSHIP.—To receive a fellowship under this title, an individual must be a United States citizen who is an undergraduate or graduate student, a teacher, scholar, or other academic, or an other individual, who has expertise in Soviet or Eastern European area studies or languages and who has a working knowledge of the principal language of the country in which he or she would serve.

(e) WOMEN AND MEMBERS OF MINORITY GROUPS.—In carrying out this section, the Secretary of State shall activity recruit women and members of minority groups.

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[1] 22 U.S.C. 4901.

SEC. 1003.[2] FELLOWSHIP BOARD.

(a) Establishment and Function.—There is hereby established a Fellowship Board (hereafter in this title referred to as the "Board"), which shall select the individuals who will be eligible to serve as Fellows.

(b) Membership.—The Board shall consist of 9 members as follows:

(1) A senior official of the Department of State (who shall be the chair of the Board), designated by the Secretary of State.

(2) An officer or employee of the Department of Commerce, designated by the Secretary of Commerce.

(3) An officer or employee of the United States Information Agency, designated by the Director of that Agency.

(4) Six academic specialists in Soviet or Eastern European area studies or languages, appointed by the Secretary of State (in consultation with the chairman and ranking minority member of the Committee on Foreign Affairs of the House of Representatives and the chairman and ranking minority of the Committee on Foreign Relations of the Senate).

(c) Meetings.—The Board shall meet at least once each year to select the individuals who will be eligible to serve as Fellows.

(d) Compensation and Per Diem.—Members of the Board shall receive no compensation on account of their service on the Board, but while away from their homes or regular places of business in the performance of their duties under this title, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5 of the United States Code.

SEC. 1004.[3] FELLOWSHIPS.

(a) Number.—Up to 100 fellowships may be provided under this title each year.

(b) Remuneration and Period.—The Board shall determine, taking into consideration the position in which each Fellow will serve and his or her experience and expertise—

(1) the amount of remuneration the Fellow will receive for his or her service under this title, and

(2) the period of the fellowship, which shall be between one and two years.

(c) Training.—Each Fellow may be given appropriate training at the Foreign Service Institute or other appropriate institution.

(d) Housing and transportation.—The Secretary of State shall, pursuant to regulations—

(1) provide housing for each Fellow while the Fellow is serving abroad, including (where appropriate) housing for family members; and

(2) pay the costs and expenses incurred by each Fellow in traveling between the United States and the country in which the Fellow serves, including (where appropriate) travel for family members.

(e) EFFECTIVE DATE.—Subsection (d) of this section shall not take effect until October 1, 1986.

SEC. 1005.[4] SECRETARY OF STATE.

(a) DETERMINATIONS.—The Secretary of State shall determine which of the individuals selected by the Board will serve at each United States diplomatic or consular mission in the Soviet Union or Eastern Europe and the position in which each will serve.

(b) AUTHORITIES.—Fellows may be employed—

(1) under a temporary appointment in the civil service;

(2) under a limited appointment in the Foreign Service; or

(3) by contract under the provisions of section 2(c) of the State Department Basic Authorities Act of 1956.

(c) FUNDING.—Funds appropriated to the Department of State for "Salaries and Expenses" shall be used for the expenses incurred in carrying out this title.

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[4] 22 U.S.C. 4904. Subsec. (b) was amended and restated by sec. 187 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100–204, 101 Stat. 1368).

6. United States—India Programs

a. United States-India Fund for Cultural, Educational, and Scientific Cooperation Act

Partial text of Public Law 98-164 [H.R. 2915], 97 Stat. 1017, at 1051, approved November 22, 1983; as amended by Public Law 99-93 [H.R. 2068], 99 Stat. 405, approved August 16, 1985; and by Public Law 100-204 [H.R. 1777], 101 Stat. 1331, approved December 1987

AN ACT To authorize appropriations for fiscal years 1984 and 1985 for the Department of State, the United States Information Agency, the Board for International Broadcasting, the Inter-American Foundation, and the Asia Foundation, to establish the National Endowment for Democracy, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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TITLE IX—UNITED STATES-INDIA FUND FOR CULTURAL, EDUCATIONAL, AND SCIENTIFIC COOPERATION

SHORT TITLE

Sec. 901. This title may be cited as the "United States-India Fund for Cultural, Educational, and Scientific Cooperation Act".

ESTABLISHMENT OF THE FUND

Sec. 902.[1] (a) The President[2] is authorized to enter into an agreement with the Government of India for the establishment of a fund (hereafter in this title referred to as the "Fund") which would provide grants and other assistance for cultural, educational, and scientific programs of mutual interest. Such programs may include exchanges of persons, exchanges of information, and other programs of study, research, and scholarly cooperation. The agreement may also provide for the establishment of an endowment, a foundation, or other means to carry out the purposes of the agreement.

(b) The United States representatives on any board or other entity created in accordance with the agreement to administer the Fund shall be designated by the President predominately from among representatives of United States Government agencies, including those administering programs which may be supported in whole or in part by the Fund.

(c) United States Government agencies carrying out programs of the types specified in subsection (a) may receive amounts directly from the Fund for use in carrying out those programs.

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[1] 22 U.S.C. 290j.

[2] Executive Order 12517 of May 29, 1985, delegated all functions vested in the President by this Act to the Secretary of State.

USE OF UNITED STATES OWNED RUPEES TO CAPITALIZE THE FUND

Sec. 903.[3] (a) Subject to applicable requirements concerning reimbursement to the Treasury for United States owned foreign currencies, the President may make available to the Fund, for use in carrying out the agreement authorized by section 902, up to the equivalent of $200,000,000 in foreign currencies owned by the United States in India or owed to the United States by the Government of India. Such use may include investment in order to generate interest which would be retained in the Fund and used to support programs pursuant to that agreement.

(b)[4] In accordance with the agreement negotiated pursuant to section 902(a), sums made available for investment for the United States-India Fund for Cultural, Educational, and Scientific Cooperation under the Departments of Commerce, Justice, and State, and the Judiciary and Related Agencies Appropriations Act, 1985, and any earnings on such sums shall be available for the purposes of section 902(a).

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[3] 22 U.S.C. 290j-1.

[4] Subsec. (b), originally added by Public Law 99-93 (99 Stat. 405), was amended and restated by sec. 305 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204, 101 Stat. 1379).

b. Delegation Concerning the United States-India Fund for Cultural, Educational, and Scientific Cooperation

Executive Order 12517 of May 29, 1985, 50 FR 23105, C.F.R.

By the authority vested in me as President by the Constitution and statutes of the United States of America, including section 301 of Title 3 of the United States Code, and in order to delegate certain functions concerning the United States-India Fund for Cultural, Educational, and Scientific Cooperation to the Secretary of State it is hereby ordered as follows:

Section 1. All functions vested in the President by the United States-India Fund for Cultural, Educational, and Scientific Cooperation Act (Title IX of Public Law 98-164, 97 Stat. 1051; "the Act") are delegated to the Secretary of State.

Sec. 2. India rupees provided to the President for purposes of Title IX of the Act and under Title III of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1985 (Public Law 98-411, 98 Stat. 1545) are allocated to the Secretary of the Treasury for investment to generate earnings for purposes of Title IX of the Act.

7. Center for Cultural and Technical Interchange Between East and West Act of 1960

Partial text of Mutual Security Act of 1960, Public Law 86-472 [H.R. 11510], 74 Stat. 134, approved May 14, 1960, as amended

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CHAPTER VII—CENTER FOR CULTURAL AND TECHNICAL INTERCHANGE BETWEEN EAST AND WEST

Sec. 701. This chapter may be cited as the "Center for Cultural and Technical Interchange Between East and West Act of 1960".

Sec. 702.[1] The purpose of this chapter is to promote better relations and understanding between the United States and the nations of Asia and the Pacific (hereinafter referred to as "the East") through cooperative study, training, and research, by establishing in Hawaii a Center for Cultural and Technical Interchange Between East and West where scholars and students in various fields from the nations of the East and West may study, give and receive training, exchange ideas and views, and conduct other activities primarily in support of the objectives of the United States Information and Educational Exchange Act of 1948, as amended, title III of chapter II of the Mutual Security Act of 1954, and other Acts promoting the international, educational, cultural, and related activities of the United States.

Sec. 703.[2] In order to carry out the purpose of this chapter the Secretary of State [3] (hereinafter referred to as the "Secretary") shall provide for—

(1) the establishment and operation in Hawaii of an educational institution to be known as the Center for Cultural and Technical Interchange Between East and West, through arrangements with public, educational, or other nonprofit institutions;

(2) grants, fellowships, and other payments to outstanding scholars and authorities from the nations of the East and West

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[1] 22 U.S.C. 2054.

[2] 22 U.S.C. 2055.

[3] Pursuant to sec. 7(a) of Reorganization Plan No. 2 of 1977, all functions vested in the President, Secretary of State, the Department of State, the Director of the United States Information Agency, and the United States Information Agency by this Act were transferred to the Director of the International Communication Agency. The codified version of this Act has been changed to reflect this transfer of authority.

Subsequently, sec. 303 of Public Law 97-241 (96 Stat. 291) redesignated the International Communication Agency as the United States Information Agency and stated that any reference to the International Communication Agency in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding, shall be deemed to be a reference to the United States Information Agency. Sec. 303 also stated that references to the Director or other official of the International Communication Agency shall be deemed to refer to the Director or other official of the United States Information Agency.

as may be necessary to attract such scholars and authorities to the Center;

(3) grants, scholarships, and other payments to qualified students from the nations of the East and West as may be necessary to enable such students to engage in study or training at the Center; and

(4) making the facilities of the Center available for study or training to other qualified persons.

Sec. 704.[4] (a) In carrying out the provisions of this chapter, the Secretary [3] may utilize his authority under the provisions of the United States Information and Educational Exchange Act of 1948, as amended.

(b) The Secretary [3] may, in administering the provisions of this chapter, accept from public and private sources money and property to be utilized in carrying out the purposes and functions of the Center. In utilizing any gifts, bequests, or devises accepted there shall be available to the Secretary [3] the same authorities as are available to him in accepting and utilizing gifts, bequests, and devises to the Foreign Service Institute under the provisions of section 25 of the State Department Basic Authorities Act of 1956.[5] For the purposes of Federal income, estate, and gift taxes, any gift, devise, or bequest accepted by the Secretary [3] under the authority of this chapter shall be deemed to be a gift, devise, or bequest to or for the use of the United States.

(c) [6] The Director of the International Communication Agency [7] shall make periodic reports, as he deems necessary, to the Congress with respect to his activities under the provisions of this chapter, and such reports shall include any recommendations for needed revisions in this chapter.

Sec. 705.[8] There are authorized to be appropriated, to remain available until expended, such amounts as may be necessary to carry out the provisions of this chapter.

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[4] 22 U.S.C. 2056.

[5] This reference to the State Department Basic Authorities Act of 1956 was substituted in lieu of a reference to the Foreign Service Act of 1946 by sec. 2206(8) of Public Law 96-465 (94 Stat. 2162).

[6] Subsec. (c) was amended and restated by sec. 212(b) of Public Law 96-470 (94 Stat. 2246). The report to be submitted under subsec. (c) was formerly required annually.

[7] Sec. 303 of Public Law 97-241 (96 Stat. 291) redesignated the International Communication Agency as the United States Information Agency and stated that any reference to the International Communication Agency in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding, shall be deemed to be a reference to the United States Information Agency. Sec. 303 also stated that references to the Director or other official of the International Communication Agency shall be deemed to refer to the Director or other official of the United States Information Agency.

[8] 22 U.S.C. 2057. Title V of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1989 (Public Law 100-459, 102 Stat. 2222), provided the following:

"EAST-WEST CENTER

"To enable the Director of the United States Information Agency to provide for carrying out the provisions of the Center for Cultural and Technical Interchange Between East and West Act of 1960, by grant to any appropriate recipient in the State of Hawaii, $20,000,000: *Provided,* That none of the funds appropriated herein shall be used to pay any salary, or to enter into any contract providing for the payment thereof, in excess of the rate authorized for GS-18 of the Classification Act of 1949, as amended, exclusive of any cap on such rate."

8. Japan-United States Friendship Act

Public Law 94-118 [S. 824], 89 Stat. 603, approved October 20, 1975, as amended by Public Law 94-350 [S. 3168], 90 Stat. 823, approved July 12, 1976; Public Law 95-426 [Foreign Relations Authorization Act, Fiscal Year 1979; H.R. 12598], 92 Stat. 963 at 992, approved October 7, 1978; and by Public Law 97-241 [S. 1193], 96 Stat. 273 at 298, approved August 24, 1982

AN ACT To provide for the use of certain funds to promote scholarly, cultural, and artistic activities between Japan and the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Japan-United States Friendship Act".

STATEMENT OF FINDINGS AND PURPOSE

Sec. 2.[1] (a) The Congress hereby finds that—

(1) the post-World War II evolution of the relationship between Japan and the United States to peacetime friendship and partnership is one of the most significant developments of the postwar period;

(2) the Agreement Between Japan and the United States of America Concerning the Ryukyu Islands and the Daito Islands, signed at Washington and Tokyo on June 17, 1971,[2] is a major achievement and symbol of the new relationship between the United States and Japan; and

(3) the continuation of close United States-Japan friendship and cooperation will make a vital contribution to the prospects for peace, prosperity, and security in Asia and the world.

(b) It is therefore the purpose of this Act to provide for the use of an amount equal to a part of the total sum payable by Japan to the United States in connection with the reversion of Okinawa to Japanese administration and the remaining funds of the amount set aside in 1962 for educational and cultural exchange with Japan (known as the G.A.R.I.O.A. Account) to aid education and culture at the highest level in order to enhance reciprocal people-to-people understanding and to support the close friendship and mutuality of interests between the United States and Japan.

ESTABLISHMENT OF THE FUND; EXPENDITURES

Sec. 3.[3] (a) There is established in the Treasury of the United States a trust fund to be known as the Japan-United States Friendship Trust Fund (hereafter referred to as the "Fund").

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[1] 22 U.S.C. 2901.

[2] 23 U.S.T. 446.

[3] 22 U.S.C. 2902.

(b) Amounts in the Fund shall be used for the promotion of scholarly, cultural, and artistic activities between Japan and the United States, including—

(1) support for studies, including language studies, in institutions of higher education or scholarly research in Japan and the United States, designed to foster mutual understanding between Japan and the United States;

(2) support for major collections of Japanese books and publications in appropriate libraries located throughout the United States and similar support for collections of American books and publications in appropriate libraries located throughout Japan;

(3) support for programs in the arts in association with appropriate institutions in Japan and the United States;

(4) support for fellowships and scholarships at the graduate and faculty levels in Japan and the United States in accord with the purposes of this Act;

(5) support for visiting professors and lecturers at colleges and universities in Japan and the United States; and

(6) support for other Japan-United States cultural and educational activities consistent with the purposes of this Act.

(c) Amounts in the Fund may also be used to pay administrative expenses of the Japan-United States Friendship Commission, established by section 4 of this Act, as directed by that Commission.

(d) There is authorized to be appropriated to the Fund, for fiscal year 1976, an amount equal to 7.5 per centum of the total fund payable to the United States pursuant to the Agreement Between Japan and the United States of America Concerning the Ryukyu Islands and the Daito Islands, signed at Washington and Tokyo, June 17, 1971, including interest and proceeds accruing to the Fund from such funds in accordance with sections 6(4) and 7 of this Act.[4]

(e)(1) There is authorized to be appropriated to the Fund, for fiscal year 1976, in addition to the amount authorized to be appropriated by subsection (d) of this section, those funds available in United States accounts in Japan and transferred by the Government of Japan to the United States pursuant to the United States request made under article V of the agreement between the United States of America and Japan regarding the settlement of Postwar Economic Assistance to Japan, signed in Tokyo, January 9, 1962, and the exchange of notes of the same date (13 U.S.T. 1957; T.I.A.S. 5154) (the G.A.R.I.O.A. Account), including interest accruing to the G.A.R.I.O.A. Account and interest and proceeds accruing to the Fund from such funds in accordance with sections 6(4) and 7 of this Act.[5]

(2) The amount authorized to be appropriated by paragraph (1) of this subsection shall not include any amount required by law to be applied to United States participation in the International Ocean Exposition to be held in Okinawa, Japan.

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[4] The words to this point beginning with ", including interest and proceeds accruing * * *", were added by sec. 401(2) of the Foreign Relations Authorization Act, Fiscal Year 1977 (Public Law 94-350).

[5] The words to this point beginning with "and interest and proceeds accruing to the Fund * * *", were added by sec. 401(3) of the Foreign Relations Authorization Act, Fiscal Year 1977 (Public Law 94-350).

(3) Any unappropriated portion of the amount authorized to be appropriated by subsection (d) of this section and paragraph (1) of this subsection for fiscal year 1976 may be appropriated in any subsequent fiscal year.

THE JAPAN-UNITED STATES FRIENDSHIP COMMISSION

Sec. 4.[6] (a) There is established a commission to be known as the Japan-United States Friendship Commission (hereafter referred to as the "Commission"). The Commission shall be composed of—

(1) the members of the United States Panel of the Joint Committee on United States-Japan Cultural and Educational Cooperation;

(2) two Members of the House of Representatives, to be appointed at the beginning of each Congress or upon the occurrence of a vacancy during a Congress by the Speaker of the House of Representatives;

(3) two Members of the Senate, to be appointed at the beginning of each Congress or upon the occurrence of a vacancy during a Congress by the President pro tempore of the Senate;

(4) the Chairman of the National Endowment for the Arts; and

(5) the Chairman of the National Endowment for the Humanities.

(b) Members of the Commission who are not full-time officers or employees of the United States and who are not Members of Congress shall, while serving on business of the Commission, be entitled to receive compensation at rates fixed by the President, but not exceeding the rate specified at the time of such service for grade GS-18 in section 5332 of title 5, United States Code, including traveltime; and while so serving away from their homes or regular places of business, all members of the Commission may be allowed travel expenses including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently.

(c) The Chairman of the United States Panel of the Joint Committee on United States-Japan Cultural and Educational Cooperation shall be the Chairman of the Commission. A majority of the members of the Commission shall constitute a quorum. The Commission shall meet at least twice in each year.

FUNCTIONS OF THE COMMISSION

Sec. 5.[7] (a) The Commission is authorized to—

(1) develop and carry out programs at public or private institutions for the promotion of scholarly, cultural, and artistic activities in Japan and the United States consistent with the provisions of section 3(b) of this Act; and

(2) make grants to carry out such programs.

(b) The Commission shall submit to the President and to the Congress an annual report of its activities under this Act together with such recommendations as the Commission determines appropriate.

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[6] 22 U.S.C. 2903.

[7] 22 U.S.C. 2904.

ADMINISTRATIVE PROVISIONS

Sec. 6.[8] In order to carry out its functions under this Act, the Commission is authorized to—

(1) prescribe such regulations as it deems necessary governing the manner in which its functions shall be carried out;

(2) receive money and property donated, bequeathed, or devised, without condition or restriction other than that it be used for the purposes of this Act; and to use, sell, or otherwise dispose of such property (including transfer to the Fund) for the purpose of carrying out the purposes of this Act, and any such donation shall be exempt from any Federal income, State, or gift tax;

(3) in the discretion of the Commission, receive (and use, sell, or otherwise dispose of, in accordance with paragraph (2)) money and other property donated, bequeathed, or devised to the Commission with a condition or restriction, including a condition that the Commission use other funds of the Commission for the purposes of the gift, and any such donation shall be exempt from any Federal income, State, or gift tax;

(4) direct the Secretary of the Treasury to make expenditure of the income of the Fund, any amount of the contributions deposited in the Fund from nonappropriated sources pursuant to paragraph (2) or (3) of this section, and not to exceed 5 percent annually of the principal of the total amount appropriated to the Fund [9] to carry out the purposes of this Act, including the payment of Commission expenses if needed, except that any amounts expended from amounts appropriated to the Fund under section 3(e)(1) of this Act shall be expended in Japan;

(5) appoint an Executive Director, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, who shall be compensated at the rate provided for a GS-18 of the General Schedule of such title;

(6) obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code, at rates for individuals not to exceed the rate specified at the time of such service for grade GS-18 in section 5332 of title 5, United States Code;

(7) accept and utilize the services of voluntary and noncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5, United States Code;

(8) enter into contracts, grants, or other arrangements, or modifications thereof;

(9) make advances, progress, and other payments which the Commission deems necessary under this Act;

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[8] 22 U.S.C. 2905.

[9] The words to this point beginning with ", any amount of the contributions deposited * * *" were substituted in lieu of the words "and not to exceed 5 per centum annually of the principal of the Fund" by sec. 503(a) of Public Law 97-241 (96 Stat. 298).

(10) obtain [10] such administrative support services and personnel as the Commission deems necessary and appropriate to its needs; and

(11) [11] transmit its official mail as penalty mail in the same manner and upon the same conditions as an officer of the United States other than a Member of Congress is permitted to transmit official mail as penalty mail under section 3202 of title 39 of the United States Code.

MANAGEMENT OF THE FUND

Sec. 7.[12] (a) The Fund shall consist of—

(1) amounts appropriated under section 3(d) and (e)(1) of this Act;

(2) any other amounts received by the Fund by way of gifts and donations; and

(3) interest and proceeds credited to it under subsection (b) of this section.

(b) It shall be the duty of the Secretary of the Treasury (hereafter referred to as the "Secretary") to invest such portion of the Fund as is not, in the judgment of the Commission, required to meet current withdrawals. Such investment of amounts authorized to be appropriated under section 3(d) of this Act [13] may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purposes, the obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act,[14] as amended, are hereby extended to authorize the issuance at par of special obligations exclusively to the Fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States issued during the preceding two years then forming part of the public debt; except that where such average rate is not a multiple of one-eighth of 1 per centum, the rate of interest of such special obligations shall be the multiple of one-eighth of 1 per centum next lower than such average rate. Such special obligations shall be issued only if the Secretary determines that the purchase of other interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States on original issue or at the market price, is not in the public interest.

(c) Any obligation acquired by the Fund (except special obligations issued exclusively to the Fund) may be sold by the Secretary at the market price, and such special obligations may be redeemed at par plus accrued interest.

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[10] Sec. 401(1) of the Foreign Relations Authorization Act, Fiscal Year 1977, struck out the words "from the Secretary of State, on a reimbursable basis," which had formerly appeared at this point.

[11] Paragraph (11) was added by sec. 703 of Public Law 95-426 (92 Stat. 992).

[12] 22 U.S.C. 2906.

[13] Sec. 401(3)(B) of the Foreign Relations Authorization Act, Fiscal Year 1977, added the words "of amounts authorized to be appropriated under sec. 3(d) of this Act".

[14] 31 U.S.C. 774.

(d) The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to and form a part of the Fund.

(e) In accordance with section 6(4) of this Act, the Secretary shall pay out of the Fund such amounts, including expenses of the Commission, as the Commission considers necessary to carry out the provisions of this Act; except that amounts in the Fund, other than amounts which have been appropriated and amounts received (including amounts earned as interest on, and proceeds from the sale or redemption of, obligations purchased with amounts received) [15] by the Commission pursuant to sections 6(2) and 6(3), shall be subject to the appropriation process.

NOTE.—Title V of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1989 (Public Law 100–459, 102 Stat. 2186) provided the following for fiscal year 1989:

JAPAN-UNITED STATES FRIENDSHIP COMMISSION

JAPAN-UNITED STATES FRIENDSHIP TRUST FUND

For expenses of the Japan-United States Friendship Commission as authorized by Public Law 94–118, as amended, from the interest earned on the Japan-United States Friendship Trust Fund, $1,415,000; and an amount of Japanese currency not to exceed the equivalent of $1,700,000 based on exchange rates at the time of payment of such amounts as authorized by Public Law 94–118.

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[15] The parenthetical phrase was added by sec. 503(b) of Public Law 97–241 (96 Stat. 298).

9. Exchange of Materials and Objects

a. Executive Order 11311, October 14, 1966, 31 F.R. 13413, 3 CFR, 1966–70 Comp., p. 593

Carrying Out Provisions of the Beirut Agreement of 1949 Relating to Audio-Visual Materials

By virtue of the authority vested in me as President of the United States, including the provisions of the Joint Resolution of October 8, 1966, Public Law 89–634, and section 301 of Title 3 of the United States Code, I hereby order and proclaim that—

1. Pursuant to section 3(b) of the Joint Resolution, the amendments to the Tariff Schedules of the United States made by section 3(a) of the Joint Resolution shall apply with respect to articles entered, or withdrawn from warehouse, for consumption, on and after January 1, 1967.

2. Pursuant to the "Agreement for Facilitating the International Circulation of Visual and Auditory Materials of an Educational, Scientific and Cultural Character", made at Beirut in 1948, the Joint Resolution, and headnote 1 to schedule 8, part 6 of the Tariff Schedules of the United States, the United States Information Agency is hereby designated as the agency to carry out the provisions of the Agreement and related protocol, and to make any determinations and to prescribe any regulations required by headnote 1.

b. Exemption From Judicial Seizure of Cultural Objects Imported for Temporary Exhibition

(1) Public Law 89-259 [S. 2273], 79 Stat. 985, approved October 19, 1965 [1]

AN ACT To render immune from seizure under judicial process certain objects of cultural significance imported into the United States for temporary display or exhibition, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) whenever any work of art or other object of cultural significance is imported into the United States from any foreign country, pursuant to an agreement entered into between the foreign owner or custodian thereof and the United States or one or more cultural or educational institutions within the United States providing for the temporary exhibition or display thereof within the United States at any cultural exhibition, assembly, activity, or festival administered, operated, or sponsored, without profit, by any such cultural or educational institution, no court of the United States, any State, the District of Columbia, or any territory or possession of the United States may issue or enforce any judicial process, or enter any judgment, decree, or order, for the purpose or having the effect of depriving such institution, or any carrier engaged in transporting such work or object within the United States of custody or control of such object if before the importation of such object the President or his designee has determined that such object is of cultural significance and that the temporary exhibition or display thereof within the United States is in the national interest, and a notice to that effect has been published in the Federal Register.

(b) If in any judicial proceeding in any such court any such process, judgment, decree, or order is sought, issued, or entered, the United States attorney for the judicial district within which such proceeding is pending shall be entitled as of right to intervene as a party to that proceeding, and upon request made by either the institution adversely affected, or upon direction by the Attorney General if the United States is adversely affected, shall apply to such court for the denial, quashing, or vacating thereof.

(c) Nothing contained in this Act shall preclude (1) any judicial action for or in aid of the enforcement of the terms of any such agreement or the enforcement of the obligation of any carrier under any contract for the transportation of any such object of cultural significance; or (2) the institution or prosecution by or on behalf of any such institution or the United States of any action for or in aid of the fulfillment of any obligation assumed by such institution or the United States pursuant to any such agreement.

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[1] 22 U.S.C. 2459.

(2) Executive Order 12047, March 27, 1978, 43 F.R. 13359, as amended by Executive Order 12388, October 14, 1982, 47 F.R. 46245

IMPORTED OBJECTS OF CULTURAL SIGNIFICANCE

By virtue of the authority vested in me by the Act of October 19, 1965, entitled "An Act to render immune from seizure under judicial process certain objects of cultural significance imported into the United States for temporary display or exhibition, and for other purposes" (79 Stat. 985, 22 U.S.C. 2459), and as President of the United States of America, it is hereby ordered as follows:

Section 1. The Director of the United States Information Agency [1] is designated and empowered to perform the functions conferred upon the President by the above-mentioned Act and shall be deemed to be authorized, without the approval, ratification, or other action of the President, (1) to determine that any work of art or other object to be imported into the United States within the meaning of the Act is of cultural significance, (2) to determine that the temporary exhibition or display of any such work of art or other object in the United States is in the national interest, and (3) to cause public notices of the determinations referred to above to be published in the Federal Register.

Sec. 2. The Director of the United States Information Agency,[1] in carrying out this Order, shall consult with the Secretary of State with respect to the determination of national interest, and may consult with the Secretary of the Smithsonian Institution, the Director of the National Gallery of Art, and with such other officers and agencies of the Government as may be appropriate, with respect to the determination of cultural significance.

Sec. 3. The Director of the United States Information Agency [1] is authorized to delegate within the Agency the functions conferred upon him by this Order.

Sec. 4. Executive Order No. 11312 of October 14, 1966 is revoked.[2]

Sec. 5. Any order, regulation, determination or other action which was in effect pursuant to the provisions of Executive Order No. 11312 shall remain in effect until changed pursuant to the authority provided in this Order.

Sec. 6. This Order shall be effective on April 1, 1978.

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[1] The references to the United States Information Agency were inserted in lieu of references to the International Communication Agency by sec. 1 of Executive Order 12388.

[2] Executive Order 11312, effective October 14, 1966, had delegated the authorities under this executive order to the Secretary of State. With the establishment of the International Communication Agency (since redesignated as the United States Information Agency) on April 1, 1978, these functions were redelegated to the Director of the new Agency.

10. Convention on Cultural Property Implementation Act

Partial text of Public Law 97-446 [H.R. 4566], 96 Stat. 2329, approved January 12, 1983; as amended by Public Law 100-204 [H.R. 1777], 101 Stat. 1331, approved December 22, 1987

AN ACT To reduce certain duties, to suspend temporarily certain duties, to extend certain existing suspensions of duties, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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TITLE III—IMPLEMENTATION OF CONVENTION ON CULTURAL PROPERTY

SEC. 301. SHORT TITLE.

This title may be cited as the "Convention on Cultural Property Implementation Act".[1]

SEC. 302. DEFINITIONS.

For purposes of this title—

(1) The term "agreement" includes any amendment to, or extension of, any agreement under this title that enters into force with respect to the United States.

(2) The term "archaeological or ethnological material of the State Party" means—

(A) any object of archaeological interest;

(B) any object of ethnological interest; or

(C) any fragment or part of any object referred to in subparagraph (A) or (B);

which was first discovered within, and is subject to export control by, the State Party. For purposes of this paragraph—

(i) no object may be considered to be an object of archaeological interest unless such object—

(I) is of cultural significance;

(II) is at least two hundred and fifty years old; and

(III) was normally discovered as a result of scientific excavation, clandestine or accidental digging, or exploration on land or under water; and

(ii) no object may be considered to be an object of ethnological interest unless such object is—

(I) the product of a tribal or nonindustrial society, and

(II) important to the cultural heritage of a people because of its distinctive characteristics, comparative rarity, or its contribution to the knowledge of the origins, development, or history of that people.

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[1] 19 U.S.C. 2601.

(3) The term "Committee" means the Cultural Property Advisory Committee established under section 206.[2]

(4) The term "consignee" means a consignee as defined in section 483 of the Tariff Act of 1930 (19 U.S.C. 1483).

(5) The term "Convention" means the Convention on the means of prohibiting and preventing the illicit import, export, and transfer of ownership of cultural property adopted by the General Conference of the United Nations Educational, Scientific, and Cultural Organization at its sixteenth session.

(6) The term "cultural property" includes articles described in article 1 (a) through (k) of the Convention whether or not any such article is specifically designated as such by any State Party for the purposes of such article.

(7) The term "designated archaeological or ethnological material" means any archaeological or ethnological material of the State Party which—

(A) is—

(i) covered by an agreement under this title that enters into force with respect to the United States, or

(ii) subject to emergency action under section 304, and

(B) is listed by regulation under section 305.

(8) The term "Secretary" means the Secretary of the Treasury or his delegate.

(9) The term "State Party" means any nation which has ratified, accepted, or acceded to the Convention.

(10) The term "United States" includes the several States, the District of Columbia, and any territory or area the foreign relations for which the United States is responsible.

(11) The term "United States citizen" means—

(A) any individual who is a citizen or national of the United States;

(B) any corporation, partnership, association, or other legal entity organized or existing under the laws of the United States or any State; or

(C) any department, agency, or entity of the Federal Government or of any government of any State.

SEC. 303.[3] AGREEMENTS TO IMPLEMENT ARTICLE 9 OF THE CONVENTION.

(a) AGREEMENT AUTHORITY.—

(1) [4] IN GENERAL.—If the President determines, after request is made to the United States under article 9 of the Convention by any State Party—

(A) that the cultural patrimony of the State Party is in jeopardy from the pillage of archaeological or ethnological materials of the State Party;

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[2] This reference to sec. 206 should probably be a reference to sec. 306.

[3] 19 U.S.C. 2602.

[4] The functions conferred upon the President by sec. 303(a)(1) concerning determinations to be made prior to initiation of negotiations of bilateral or multilateral agreements were delegated to the Director of the United States Information Agency, acting in consultation with the Secretary of State and the Secretary of the Treasury, by Executive Order 12555 of March 10, 1986, 51 F.R. 8475.

(B) that the State Party has taken measures consistent with the Convention to protect its cultural patrimony;

(C) that—

(i) the application of the import restrictions set forth in section 307 with respect to archaeological or ethnological material of the State Party, if applied in concert with similar restrictions implemented, or to be implemented within a reasonable period of time, by those nations (whether or not State Parties) individually having a significant import trade in such material, would be of substantial benefit in deterring a serious situation of pillage, and

(ii) remedies less drastic than the application of the restrictions set forth in such section are not available; and

(D) that the application of the import restrictions set forth in section 307 in the particular circumstances is consistent with the general interest of the international community in the interchange of cultural property among nations for scientific, cultural, and educational purposes;

the President may, subject to the provisions of this title, take the actions described in paragraph (2).

(2)[5] AUTHORITY OF PRESIDENT.—For purposes of paragraph (1), the President may enter into—

(A) a bilateral agreement with the State Party to apply the import restrictions set forth in section 307 to the archaeological or ethnological material of the State Party the pillage of which is creating the jeopardy to the cultural patrimony of the State Party found to exist under paragraph (1)(A); or

(B) a multilateral agreement with the State Party and with one or more other nations (whether or not a State Party) under which the United States will apply such restrictions, and the other nations will apply similar restrictions, with respect to such material.

(3) REQUESTS.—A request made to the United States under article 9 of the Convention by a State Party must be accompanied by a written statement of the facts known to the State Party that relate to those matters with respect to which determinations must be made under subparagraphs (A) through (D) of paragraph (1).

(4)[5] IMPLEMENTATION.—In implementing this subsection, the President should endeavor to obtain the commitment of the State Party concerned to permit the exchange of its archaeological and ethnological materials under circumstances in which such exchange does not jeopardize its cultural patrimony.

(b) EFFECTIVE PERIOD.—The President may not enter into any agreement under subsection (a) which has an effective period beyond the close of the five-year period beginning on the date on which such agreement enters into force with respect to the United States.

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[5] The functions conferred upon the President by secs. 303(a)(2) and 303(a)(4) were delegated to the Secretary of State, acting in consultation with and with the participation of the Director of the United States Information Agency and in consultation with the Secretary of the Treasury by Executive Order 12555 of March 10, 1986, 51 F.R. 8475.

(c) RESTRICTIONS ON ENTERING INTO AGREEMENTS.—

(1) IN GENERAL.—The President may not enter into a bilateral or multilateral agreement authorized by subsection (a) unless the application of the import restrictions set forth in section 307 with respect to archaeological or ethnological material of the State Party making a request to the United States under article 9 of the Convention will be applied in concert with similar restrictions implemented, or to be implemented, by those nations (whether or not State Parties) individually having a significant import trade in such material.

(2) EXCEPTION TO RESTRICTIONS.—Notwithstanding paragraph (1), the President may enter into an agreement if he determines that a nation individually having a significant import trade in such material is not implementing, or is not likely to implement, similar restrictions, but—

(A) such restrictions are not essential to deter a serious situation of pillage, and

(B) the application of the import restrictions set forth in section 307 in concert with similar restrictions implemented, or to be implemented, by other nations (whether or not State Parties) individually having a significant import trade in such material would be of substantial benefit in deterring a serious situation of pillage.

(d) [6] SUSPENSION OF IMPORT RESTRICTIONS UNDER AGREEMENTS.—If, after an agreement enters into force with respect to the United States, the President determines that a number of parties to the agreement (other than parties described in subsection (c)(2) having significant import trade in the archaeological and ethnological material covered by the agreement—

(1) have not implemented within a reasonable period of time import restrictions that are similar to those set forth in section 307, or

(2) are not implementing such restrictions satisfactorily with the result that no substantial benefit in deterring a serious situation of pillage in the State Party concerned is being obtained,

the President shall suspend the implementation of the import restrictions under section 307 until such time as the nations take appropriate corrective action.

(e) [7] EXTENSION OF AGREEMENTS.—The President may extend any agreement that enters into force with respect to the United States

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[6] The functions conferred upon the President by sec. 303(d) with respect to the determinations concerning the failure of other parties to an agreement to take any or satisfactory implementation action on their agreement were delegated to the Director of the United States Information Agency, acting in consultation with the Secretary of State and the Secretary of the Treasury, by Executive Order 12555 of March 10, 1986, 51 F.R. 8475. The Order required, however, that the Secretary of State remain responsible for interpretation of the agreement. To the extent they involve suspension of import restrictions, functions were delegated to the Secretary of the Treasury.

[7] The functions conferred upon the President by sec. 303(e) relating to the determinations to be made prior to the initiation of negotiations for the extension of any agreement were delegat-

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for additional periods of not more than five years each if the President determines that—

(1) the factors referred to in subsection (a)(1) which justified the entering into of the agreement still pertain, and

(2) no cause for suspension under subsection (d) exists.

(f)[8] PROCEDURES.—If any request described in subsection (a) is made by a State Party, or if the President proposes to extend any agreement under subsection (e), the President shall—

(1) publish notification of the request or proposal in the Federal Register;

(2) submit to the Committee such information regarding the request or proposal (including, if applicable, information from the State Party with respect to the implementation of emergency action under section 304) as is appropriate to enable the Committee to carry out its duties under section 306(f); and

(3) consider, in taking action on the request or proposal, the views and recommendations contained in any Committee report—

(A) required under section 306(f) (1) or (2), and

(B) submitted to the President before the close of the one-hundred-and-fifty-day period beginning on the day on which the President submitted information on the request or proposal to the Committee under paragraph (2).

(g)[9] INFORMATION ON PRESIDENTIAL ACTION.—

(1) IN GENERAL.—In any case in which the President—

(A) enters into or extends an agreement pursuant to subsection (a) or (e), or

(B)[10] applies import restrictions under section 204,

the President shall, promptly after taking such action, submit a report to the Congress.

(2) REPORT.—The report under paragraph (1) shall contain—

(A) a description of such action (including the text of any agreement entered into),

(B) the differences (if any) between such action and the views and recommendations contained in any Committee report which the President was required to consider, and

(C) the reasons for any such difference.

(3) INFORMATION RELATING TO COMMITTEE RECOMMENDATIONS.—If any Committee report required to be considered by

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ed to the Director of the United States Information Agency, acting in consultation with the Secretary of State and the Secretary of the Treasury, by Executive Order 12555 of March 10, 1986, 51 F.R. 8475. Functions relating only to negotiation and conclusion of extensions of agreements under this Act were delegated to the Secretary of State, acting in consultation with and with the participation of the Director of the United States Information Agency and in consultation with the Secretary of the Treasury.

[8] The functions conferred upon the President by this sec. 303(f) relating to actions to be taken upon receipt of a request made by a State Party were delegated to the Director of the United States Information Agency, acting in consultation with the Secretary of State and the Secretary of the Treasury, by Executive Order 12555 of March 10, 1986, 51 F.R. 8475.

[9] Except with respect to subsec. 303(g)(1)(B), the functions conferred upon the President by sec. 303(g) were delegated to the Secretary of State, acting in consultation with and with the participation of the Director of the United States Information Agency and in consultation with the Secretary of the Treasury by Executive Order 12555 of March 10, 1986, 51 F.R. 8475.

[10] The functions conferred upon the President by sec. 303(g)(1)(B) relating to the notification of Presidential action and furnishing of reports to Congress were delegated to the Director of the United States Information Agency, acting in consultation with the Secretary of State and the Secretary of the Treasury, by Executive Order 12555 of March 10, 1986, 51 F.R. 8475.

the President recommends that an agreement be entered into, but no such agreement is entered into, the President shall submit to the Congress a report which contains the reasons why such agreement was not entered into.

SEC. 304.[11] EMERGENCY IMPLEMENTATION OF IMPORT RESTRICTIONS.

(a) EMERGENCY CONDITION DEFINED.—For purposes of this section, the term "emergency condition" means, with respect to any archaeological or ethnological material of any State Party, that such material is—

(1) a newly discovered type of material which is of importance for the understanding of the history of mankind and is in jeopardy from pillage, dismantling, dispersal, or fragmentation;

(2) identifiable as coming from any site recognized to be of high cultural significance if such site is in jeopardy from pillage, dismantling, dispersal, or fragmentation which is, or threatens to be, of crisis proportions; or

(3) a part of the remains of a particular culture or civilization, the record of which is in jeopardy from pillage, dismantling, dispersal, or fragmentation which is, or threatens to be, of crisis proportions;

and application of the import restrictions set forth in section 307 on a temporary basis would, in whole or in part, reduce the incentive for such pillage, dismantling, dispersal or fragmentation.

(b)[12] PRESIDENTIAL ACTION.—Subject to subsection (c), if the President determines that an emergency condition applies with respect to any archaeological or ethnological material of any State Party, the President may apply the import restrictions set forth in section 307 with respect to such material.

(c) LIMITATIONS.—

(1) The President may not implement this section with respect to the archaeological or ethnological materials of any State Party unless the State Party has made a request described in section 303(a) to the United States and has supplied information which supports a determination that an emergency condition exists.

(2) In taking action under subsection (b) with respect to any State Party, the President shall consider the views and recommendations contained in the Committee report required under section 306(f)(3) if the report is submitted to the President before the close of the ninety-day period beginning on the day on which the President submitted information to the Committee under section 303(f)(2) on the request of the State Party under section 303(a).

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[11] 19 U.S.C. 2603. The functions conferred upon the President by this section to the extent that they involve the application of import restrictions set forth in sec. 307 and the extension of such import restrictions pursuant to sec. 304(c)(3), were delegated to the Secretary of the Treasury, acting in consultation with the Director of the United States Information Agency and the Secretary of State, by Executive Order 12555 of March 10, 1986, 51 F.R. 8475.

[12] The functions conferred upon the President by sec. 304(b) to the extent that they involve determinations by the President that an emergency condition applies with respect to any archaeological or ethnological material of any State Party to the Convention, subject to the limitations of secs. 304(c)(1), 304(c)(2) and 304(c)(3), were delegated to the Director of the United States Information Agency, acting in consultation with the Secretary of State and the Secretary of the Treasury, by Executive Order 12555 of March 10, 1986, 51 F.R. 8475.

(3) [13] No import restrictions set forth in section 307 may be applied under this section to the archaeological or ethnological materials of any State Party for more than five years after the date on which the request of a State Party under section 303(a) is made to the United States. This period may be extended by the President for three more years if the President determines that the emergency condition continues to apply with respect to the archaeological or ethnological material. However, before taking such action, the President shall request and consider, if received within ninety days, a report of the Committee setting forth its recommendations, together with the reasons therefor, as to whether such import restrictions shall be extended.

(4) [14] The import restrictions under this section may continue to apply in whole or in part, if before their expiration under paragraph (3), there has entered into force with respect to the archaeological or ethnological materials an agreement under section 203 [15] or an agreement with a State Party to which the Senate has given its advice and consent to ratification. Such import restrictions may continue to apply for the duration of the agreement.

SEC. 305.[16] DESIGNATION OF MATERIALS COVERED BY AGREEMENTS OR EMERGENCY ACTIONS.

After any agreement enters into force under section 303, or emergency action is taken under section 304, the Secretary, after consultation with the Director of the United States Information Agency, shall by regulation promulgate (and when appropriate shall revise) a list of the archaeological or ethnological material of the State Party covered by the agreement or by such action. The Secretary may list such material by type or other appropriate classification, but each listing made under this section shall be sufficiently specific and precise to insure that (1) the import restrictions under section 307 are applied only to the archaeological and ethnological material covered by the agreement or emergency action; and (2) fair notice is given to importers and other persons as to what material is subject to such restrictions.

SEC. 306.[17] CULTURAL PROPERTY ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—There is established the Cultural Property Advisory Committee.

(b) MEMBERSHIP.—

(1) The Committee shall be composed of eleven members appointed by the President as follows:

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[13] The functions conferred upon the President by sec. 304(c)(3) to the extent that they involve determinations to be made and the receipt and consideration of an advisory report from the Cultural Property Advisory Committee by the President prior to extensions of emergency import restrictions were delegated to the Director of the United States Information Agency, acting in consultation with the Secretary of State and the Secretary of the Treasury, by Executive Order 12555 of March 10, 1986, 51 F.R. 8475.

[14] The functions conferred upon the President by sec. 303(c)(4) to the extent that they involve the negotiation and conclusion of agreements subject to the advice and consent to ratification by the Senate were delegated to the Secretary of State, acting in consultation with and with the participation of the Director of the United States Information Agency and in consultation with the Secretary of the Treasury by Executive Order 12555 of March 10, 1986, 51 F.R. 8475.

[15] This reference to sec. 203 probably should have been a reference to sec. 303.

[16] 19 U.S.C. 2604.

[17] 19 U.S.C. 2605.

(A) Two members representing the interests of museums.

(B) Three members who shall be experts in the fields of archaeology, anthropology, ethnology, or related areas.

(C) Three members who shall be experts in the international sale of archaeological, ethnological, and other cultural property.

(D) Three members who shall represent the interest of the general public.

(2) Appointments made under paragraph (1) shall be made in such a manner so as to insure—

(A) fair representation of the various interests of the public sectors and the private sectors in the international exchange of archaeological and ethnological materials, and

(B) that within such sectors, fair representation is accorded to the interests of regional and local institutions and museums.

(3)(A) [18] Members of the Committee shall be appointed for terms of three years and may be reappointed for one or more terms. With respect to the initial appointments, the President shall select, on a representative basis to the maximum extent practicable, four members to serve three-year terms, four members to serve two-year terms, and the remaining members to serve a one-year term. Thereafter each appointment shall be for a three-year term.

(B)(i) [19] A vacancy in the Committee shall be filled in the same manner as the original appointment was made and for the unexpired portion of the term, if the vacancy occurred during a term of office. Any member of the Committee may continue to serve as a member of the Committee after the expiration of his term of office until reappointed or until his successor has been appointed.

(ii) The President shall designate a Chairman of the Committee from the members of the Committee.

(c) EXPENSES.—The members of the Committee shall be reimbursed for actual expenses incurred in the performance of duties for the Committee.

(d) TRANSACTION OF BUSINESS.—Six of the members of the Committee shall constitute a quorum. All decisions of the Committee shall be by majority vote of the members present and voting.

(e) STAFF AND ADMINISTRATION.—

(1) The Director of the United States Information Agency shall make available to the Committee such administrative and technical support services and assistance as it may reasonably require to carry out its activities. Upon the request of the Committee, the head of any other Federal agency may detail to the Committee, on a reimbursable basis, any of the personnel of such agency to assist the Committee in carrying out its func-

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[18] Subsec. (3)(A) was amended and restated by sec. 307(a) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100–204, 101 Stat. 1380). Sec. 307(c) of the same Act made subsec. (3)(A) apply to those members of the Cultural Property Advisory Committee first appointed after enactment of Public Law 100–204.

[19] Subsec. (3)(B) was amended and restated by sec. 307(b) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100–204, 101 Stat. 1380).

tions, and provide such information and assistance as the Committee may reasonably require to carry out its activities.

(2) The Committee shall meet at the call of the Director of the United States Information Agency, or when a majority of its members request a meeting in writing.

(f) Reports by Committee.—

(1) The Committee shall, with respect to each request of a State Party referred to in section 303(a), undertake an investigation and review with respect to matters referred to in section 303(a)(1) as they relate to the State Party or the request and shall prepare a report setting forth—

(A) the results of such investigation and review:

(B) its findings as to the nations individually having a significant import trade in the relevant material; and

(C) its recommendation, together with the reasons therefor, as to whether an agreement should be entered into under section 303(a) with respect to the State Party.

(2) The Committee shall, with respect to each agreement proposed to be extended by the President under section 303(e), prepare a report setting forth its recommendations together with the reasons therefor, as to whether or not the agreement should be extended.

(3) The Committee shall in each case in which the Committee finds that an emergency condition under section 304 exists prepare a report setting forth its recommendations, together with the reasons therefor, as to whether emergency action under section 304 should be implemented. If any State Party indicates in its request under section 303(a) that an emergency condition exists and the Committee finds that such a condition does not exist, the Committee shall prepare a report setting forth the reasons for such finding.

(4) Any report prepared by the Committee which recommends the entering into or the extension of any agreement under section 303 or the implementation of emergency action under section 304 shall set forth—

(A) such terms and conditions which it considers necessary and appropriate to include within such agreement, or apply with respect to such implementation, for purposes of carrying out the intent of the Convention; and

(B) such archaeological or ethnological material of the State Party, specified by type or such other classification as the Committee deems appropriate, which should be covered by such agreement or action.

(5) If any member of the Committee disagrees with respect to any matter in any report prepared under this subsection, such member may prepare a statement setting forth the reasons for such disagreement and such statement shall be appended to, and considered a part of, the report.

(6)[20] The Committee shall submit to the Congress and the President a copy of each report prepared by it under this subsection.

(g)[21] COMMITTEE REVIEW.—

(1) IN GENERAL.—The Committee shall undertake a continuing review of the effectiveness of agreements under section 303 that have entered into force with respect to the United States, and of emergency action implemented under section 304.

(2) ACTION BY COMMITTEE.—If the Committee finds, as a result of such review, that—

(A) cause exists for suspending, under section 303(d), the import restrictions imposed under an agreement;

(B) any agreement or emergency action is not achieving the purposes for which entered into or implemented; or

(C) changes are required to this title in order to implement fully the obligations of the United States under the Convention;

the Committee may submit a report to the Congress and the President setting forth its recommendations for suspending such import restrictions or for improving the effectiveness of any such agreement or emergency action or this title.

(h)[22] FEDERAL ADVISORY COMMITTEE ACT.—The provisions of the Federal Advisory Committee Act (Public Law 92–463; 5 U.S.C. Appendix I) shall apply to the Committee except that the requirements of subsections (a) and (b) of section 10 and section 11 of such Act (relating to open meetings, public notice, public participation, and public availability of documents) shall not apply to the Committee, whenever and to the extent it is determined by the President or his designee that the disclosure of matters involved in the Committee's proceedings would compromise the Government's negotiating objectives or bargaining positions on the negotiations of any agreement authorized by this title.

(i) CONFIDENTIAL INFORMATION.—

(1) IN GENERAL.—Any information (including trade secrets and commercial or financial information which is privileged or confidential) submitted in confidence by the private sector to officers or employees of the United States or to the Committee in connection with the responsibilities of the Committee shall not be disclosed to any person other than to—

(A) officers and employees of the United States designated by the Director of the United States Information Agency;

(B) members of the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate who are designated by the chairman of either such Committee and members of the staff of either such Committee designated by the chairman for use in connection with negotiation of agreements or other activities authorized by this title; and

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[20] The functions conferred upon the President by sec. 306(f)(6) were delegated to the Director of the United States Information Agency, acting in consultation with the Secretary of State and the Secretary of the Treasury, by Executive Order 12555 of March 10, 1986, 51 F.R. 8475.

[21] The functions conferred upon the President by this subsec. relating to the receipt of reports were delegated to the Director of the United States Information Agency, acting in consultation with the Secretary of State and the Secretary of the Treasury, by Executive Order 12555 of March 10, 1986, 51 F.R. 8475.

[22] The functions conferred upon the President by this section relating to the determinations to be made about the disclosure of matters involved in the Committee's proceedings were delegated to the Director of the United States Information Agency, acting in consultation with the Secretary of State and the Secretary of the Treasury, by Executive Order 12555 of March 10, 1986, 51 F.R. 8475.

(C) the Committee established under this title.

(2) GOVERNMENTAL INFORMATION.—Information submitted in confidence by officers or employees of the United States to the Committee shall not be disclosed other than in accordance with rules issued by the Director of the United States Information Agency, after consultation with the Committee. Such rules shall define the categories of information which require restricted or confidential handling by such Committee considering the extent to which public disclosure of such information can reasonably be expected to prejudice the interests of the United States. Such rules shall, to the maximum extent feasible, permit meaningful consultations by Committee members with persons affected by proposed agreements authorized by this title.

(j) NO AUTHORITY TO NEGOTIATE.—Nothing contained in this section shall be construed to authorize or to permit any individual (not otherwise authorized or permitted) to participate directly in any negotiation of any agreement authorized by this title.

SEC. 307.[23] IMPORT RESTRICTIONS.

(a) DOCUMENTATION OF LAWFUL EXPORTATION.—No designated archaeological or ethnological material that is exported (whether or not such exportation is to the United States) from the State Party after the designation of such material under section 305 may be imported into the United States unless the State Party issues a certification or other documentation which certifies that such exportation was not in violation of the laws of the State Party.

(b) CUSTOMS ACTION IN ABSENCE OF DOCUMENTATION.—If the consignee of any designated archaeological or ethnological material is unable to present to the customs officer concerned at the time of making entry of such material—

(1) the certificate or other documentation of the State Party required under subsection (a); or

(2) satisfactory evidence that such material was exported from the State Party—

(A) not less than ten years before the date of such entry and that neither the person for whose account the material is imported (or any related person) contracted for or acquired an interest, directly or indirectly, in such material more than one year before that date of entry, or

(B) on or before the date on which such material was designated under section 305.

the customs officer concerned shall refuse to release the material from customs custody and send it to a bonded warehouse or store to be held at the risk and expense of the consignee, notwithstanding any other provision of law, until such documentation or evidence is filed with such officer. If such documentation or evidence is not presented within ninety days after the date on which such material is refused release from customs custody, or such longer period as may be allowed by the Secretary for good cause shown, the material shall be subject to seizure and forfeiture. The presentation of such documentation or evidence shall not bar subsequent action under section 310.

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[23] 19 U.S.C. 2606.

(c) DEFINITION OF SATISFACTORY EVIDENCE.—The term "satisfactory evidence" means—

(1) for purposes of subsection (b)(2)(A)—

(A) one or more declarations under oath by the importer, or the person for whose account the material is imported, stating that, to the best of his knowledge—

(i) the material was exported from the State Party not less than ten years before the date of entry into the United States, and

(ii) neither such importer or person (or any related person) contracted for or acquired an interest, directly or indirectly, in such material more than one year before the date of entry of the material; and

(B) a statement provided by the consignor, or person who sold the material to the importer, which states the date, or, if not known, his belief, that the material was exported from the State Party not less than ten years before the date of entry into the United States, and the reasons on which the statement is based; and

(2) for purposes of subsection (b)(2)(B)—

(A) one or more declarations under oath by the importer or the person for whose account the material is to be imported, stating that, to the best of his knowledge, the material was exported from the State Party on or before the date such material was designated under section 305, and

(B) a statement by the consignor or person who sold the material to the importer which states the date, or if not known, his belief, that the material was exported from the State Party on or before the date such material was designated under section 305, and the reasons on which the statement is based.

(d) RELATED PERSONS.—For purposes of subsections (b) and (c), a person shall be treated as a related person to an importer, or to a person for whose account material is imported, if such person—

(1) is a member of the same family as the importer or person of account, including, but not limited to, membership as a brother or sister (whether by whole or half blood), spouse, ancestor, or lineal descendant;

(2) is a partner or associate with the importer or person of account in any partnership, association, or other venture; or

(3) is a corporation or other legal entity in which the importer or person of account directly or indirectly owns, controls, or holds power to vote 20 percent or more of the outstanding voting stock or shares in the entity.

SEC. 308.[24] STOLEN CULTURAL PROPERTY.

No article of cultural property documented as appertaining to the inventory of a museum or religious or secular public monument or similar institution in any State Party which is stolen from such institution after the effective date of this title, or after the date of entry into force of the Convention for the State Party, whichever date is later, may be imported into the United States.

SEC. 309.[25] TEMPORARY DISPOSITION OF MATERIALS AND ARTICLES SUBJECT TO TITLE.

Pending a final determination as to whether any archaeological or ethnological material, or any article of cultural property has been imported into the United States in violation of section 307 or section 308, the Secretary shall, upon application by any museum or other cultural or scientific institution in the United States which is open to the public, permit such material or article to be retained at such institution if he finds that—

(1) sufficient safeguards will be taken by the institution for the protection of such material or article; and

(2) sufficient bond is posted by the institution to ensure its return to the Secretary.

SEC. 310.[26] SEIZURE AND FORFEITURE.

(a) IN GENERAL.—Any designated archaeological or ethnological material or article of cultural property, as the case may be, which is imported into the United States in violation of section 307 or section 308 shall be subject to seizure and forfeiture. All provisions of law relating to seizure, forfeiture, and condemnation for violation of the customs laws shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under this title, insofar as such provisions of law are applicable to, and not inconsistent with, the provisions of this title.

(b) ARCHAEOLOGICAL AND ETHNOLOGICAL MATERIAL.—Any designated archaeological and ethnological material which is imported into the United States in violation of section 307 and which is forfeited to the United States under this title shall—

(1) first be offered for return to the State Party;

(2) if not returned to the State Party, be returned to a claimant with respect to whom the material was forfeited if that claimant establishes—

(A) valid title to the material,

(B) that the claimant is a bona fide purchaser for value of the material; or

(3) if not returned to the State Party under paragraph (1) or to a claimant under paragraph (2), be disposed of in the manner prescribed by law for articles forfeited for violation of the customs laws.

No return of material may be made under paragraph (1) or (2) unless the State Party or claimant, as the case may be, bears the expenses incurred incident to the return and deliver, and complies with such other requirements relating to the return as the Secretary shall prescribe.

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[24] 19 U.S.C. 2607.
[25] 19 U.S.C. 2608.
[26] 19 U.S.C. 2609.

(c) ARTICLES OF CULTURAL PROPERTY.—

(1) In any action for forfeiture under this section regarding an article of cultural property imported into the United States in violation of section 208, if the claimant establishes valid title to the article, under applicable law, as against the institution from which the article was stolen, forfeiture shall not be decreed unless the State Party to which the article is to be returned pays the claimant just compensation for the article. In any action for forfeiture under this section where the claimant does not establish such title but establishes that it purchased the article for value without knowledge or reason to believe it was stolen, forfeiture shall not be decreed unless—

(A) the State Party to which the article is to be returned pays the claimant an amount equal to the amount which the claimant paid for the article, or

(B) the United States establishes that such State Party, as a matter of law or reciprocity, would in similar circumstances recover and return an article stolen from an institution in the United States without requiring the payment of compensation.

(2) Any article of cultural property which is imported into the United States in violation of section 308 and which is forfeited to the United States under this title shall—

(A) first be offered for return to the State Party in whose territory is situated the institution referred to in section 308 and shall be returned if that State Party bears the expenses incident to such return and delivery and complies with such other requirements relating to the return as the Secretary prescribes; or

(B) if not returned to such State Party, be disposed of in the manner prescribed by law for articles forfeited for violation of the customs laws.

SEC. 311.[27] EVIDENTIARY REQUIREMENTS.

Notwithstanding the provisions of section 615 of the Tariff Act of 1930 (19 U.S.C. 1615), in any forfeiture proceeding brought under this title in which the material or article, as the case may be, is claimed by any person, the United States shall establish—

(1) in the case of any material subject to the provisions of section 307, that the material has been listed by the Secretary in accordance with section 305; and

(2) in the case of any article subject to section 308, that the article—

(A) is documented as appertaining to the inventory of a museum or religious or secular public monument or similar institution in a State Party, and

(B) was stolen from such institution after the effective date of this title, or after the date of entry into force of the Convention for the State Party concerned, whichever date is later.

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[27] 19 U.S.C. 2610.

SEC. 312.[28] CERTAIN MATERIAL AND ARTICLES EXEMPT FROM TITLE.

The provisions of this title shall not apply to—

(1) any archaeological or ethnological material or any article of cultural property which is imported into the United States for temporary exhibition or display if such material or article is immune from seizure under judicial process pursuant to the Act entitled "An Act to render immune from seizure under judicial process certain objects of cultural significance imported into the United States for temporary display or exhibition, and for other purposes", approved October 19, 1965 (22 U.S.C. 2459); or

(2) any designated archaeological or ethnological material or any article of cultural property imported into the United States if such material or article—

(A) has been held in the United States for a period of not less than three consecutive years by a recognized museum or religious or secular monument or similar institution, and was purchased by that institution for value, in good faith, and without notice that such material or article was imported in violation of this title, but only if—

(i) the acquisition of such material or article has been reported in a publication of such institution, any regularly published newspaper or periodical with a circulation of at least fifty thousand, or a periodical or exhibition catalog which is concerned with the type of article or materials sought to be exempted from this title,

(ii) such material or article has been exhibited to the public for a period or periods aggregating at least one year during such three-year period, or

(iii) such article or material has been cataloged and the catalog material made available upon request to the public for at least two years during such three-year period;

(B) if subparagraph (A) does not apply, has been within the United States for a period of not less than ten consecutive years and has been exhibited for not less than five years during such period in a recognized museum or religious or secular monument or similar institution in the United States open to the public; or

(C) if subparagraphs (A) and (B) do not apply, has been within the United States for a period of not less than ten consecutive years and the State Party concerned has received or should have received during such period fair notice (through such adequate and accessible publication, or other means, as the Secretary shall by regulation prescribe) of its location within the United States; and

(D) if none of the preceding subparagraphs apply, has been within the United States for a period of not less than twenty consecutive years and the claimant establishes that it purchased the material or article for value without knowledge or reason to believe that it was imported in violation of law.

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[28] 19 U.S.C. 2611.

SEC. 313.[29] REGULATIONS.

The Secretary shall prescribe such rules and regulations as are necessary and appropriate to carry out the provisions of this title.

SEC. 314.[30] ENFORCEMENT.

In the customs territory of the United States, and in the Virgin Islands, the provisions of this title shall be enforced by appropriate customs officers. In any other territory or area within the United States, but not within such customs territory or the Virgin Islands, such provisions shall be enforced by such persons as may be designated by the President.

SEC. 315. EFFECTIVE DATE.

(a) IN GENERAL.—This title shall take effect on the ninetieth day after the date of the enactment of this Act or on any date which the President shall prescribe and publish in the Federal Register, if such date is—

(1) before such ninetieth day and after such date of enactment; and

(2) after the initial membership of the Committee is appointed.

(b) EXCEPTION.—Notwithstanding subsection (a), the members of the Committee may be appointed in the manner provided for in section 306 at any time after the date of the enactment of this Act.

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[29] 19 U.S.C. 2612.

[30] 19 U.S.C. 2613.

11. United States Recognition and Participation in International Expositions

Public Law 91-269 [S. 856], 84 Stat. 271, 22 U.S.C. 2801-2807, approved May 27, 1970; as amended by Public Law 97-254 [H.R. 6409], 96 Stat. 808, approved September 8, 1982

AN ACT To provide for Federal Government recognition of and participation in international expositions proposed to be held in the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That [1] the Congress finds that—

(a) international expositions, when properly organized, financed, and executed, have a significant impact on the economic growth of the region surrounding the exposition and, under appropriate international sanction, are important instruments of national policy, particularly in the exchange of ideas and the demonstration of cultural achievements between peoples;

(b) in view of the widely varying circumstances under which international expositions have developed in the United States, the different degrees to which the Federal Government has assisted and participated in such expositions, and the increasing number of proposals for future expositions, the national interest requires that Federal action concerning such expositions be given orderly consideration; and

(c) such orderly consideration is best achieved by the development of uniform standards, criteria, and procedures to establish the conditions under which the Government hereafter will (A) recognize international expositions proposed to be held in the United States, and (B) take part in such expositions.

FEDERAL RECOGNITION

Sec. 2.[2] (a) Any international exposition proposed to be held in the United States shall be eligible on application from its sponsors to receive the recognition of the Federal Government upon a finding of the President that recognition will be in the national interest. In making such a finding the President shall consider—

(1) a report by the Secretary of Commerce which shall include (A) an evaluation of purposes and reasons for the exposition, and (B) a determination that guaranteed financial and other support has been secured by the exposition from affected State and local governments and from business and civic leadership of the region and others, in amounts sufficient in his

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[1] 22 U.S.C. 2801.

[2] 22 U.S.C. 2802.

judgment to assure the successful development and progress of the exposition;

(2) a report by the Secretary of State that the proposed exposition qualifies for consideration of registration by the Bureau of International Expositions (hereafter referred to as BIE); and

(3) such other evidence as the President may consider to be appropriate.

(b) Upon a finding by the President that an international exposition is eligible for Federal recognition, the President may take such measures recognizing the exposition as he deems proper, including, but not limited to—

(1) presenting of an official request by the United States for registration of the exposition by the BIE;

(2) providing for fulfillment of the requirements of the Convention of November 22, 1928, as amended, relating to international expositions; and

(3) extending invitations, by proclamation or by such other manner he deems proper, to the several States of the Union and to foreign governments to take part in the exposition, provided that he shall not extend such an invitation until he has been notified officially of BIE registration for the exposition.

(c) The President shall report his actions under this section promptly to the Congress.

FEDERAL PARTICIPATION

Sec. 3.[3] (a)[4] The Federal Government may participate in an international exposition proposed to be held in the United States only upon the authorization of the Congress. If the President finds that Federal participation is in the national interest, he shall transmit to the Congress his proposal for such participation, which proposal shall include—

(1)[4] evidence that the international exposition has met the criteria for Federal recognition and, pursuant to section 2 of this Act, it has been so recognized;

(2)[4] a statement that the international exposition has been registered by the BIE; and

(3)[4] a plan prepared by the Secretary of Commerce in cooperation with other interested departments and agencies of the Federal Government for Federal participation in the exposition. The Secretary of Commerce shall include in such plan any documentation described in subsection (b)(1)(A) of this section, a rendering of any design described in subsection (b)(1)(B) of this section, and any recommendation based on the determination under subsection (b)(1)(C) of this section.[5]

(b)[4] (1) In developing a plan under subsection (a)(3) of this section the Secretary of Commerce shall consider whether the plan should include the construction of a Federal pavilion. If the Secretary of Commerce determines that a Federal pavilion should be constructed, he shall request the Administrator of General Services (hereinafter in this section referred to as the "Administrator") to determine, in consultation with such Secretary, whether there is a federally endorsed need for a permanent structure in the area of the exposition. If the Administrator determines that any such need exists—

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[3] 22 U.S.C. 2803.

[4] Sec. 16 of Public Law 97-254 (96 Stat. 812) inserted the subsec. designation "(a)", substituted the clause designations of (1), (2), and (3) in lieu of (a), (b), and (c), respectively, and added a new subsec. (b).

[5] Sec. 16 of Public Law 97-254 (96 Stat. 812) substituted this sentence in lieu of the final three sentences of clause (3).

(A) the Administrator shall fully document such determination, including the identification of the need, and shall transmit such documentation to the Secretary of Commerce;

(B) the Secretary of Commerce, in consultation with the Administrator, shall design a pavilion which satisfies the federally endorsed needs for—

(i) participation in the exposition; and

(ii) permanent use of such pavilion after the termination of participation in the exposition; and

(C) the Secretary of Commerce shall determine whether the Federal Government should be deeded a satisfactory site for the Federal pavilion in fee simple, free of all liens and encumbrances, as a condition of participation in the exposition.

(2) Notwithstanding paragraph (1)(B) of this subsection, if the Secretary of Commerce, in consultation with the Administrator determines that no design of a Federal pavilion will satisfy both needs described in paragraph (1)(B) of this subsection, the Secretary shall design a temporary Federal pavilion.

(c) The enactment of a specific authorization of appropriations shall be required—

(1) to construct a Federal pavilion in accordance with the plan prepared pursuant to subsection (a)(3) of this section;

(2) if the Federal pavilion is not temporary, to modify such Federal pavilion after termination of participation in the exposition if modification is necessary to adapt such pavilion for use by the Federal Government to satisfy a need described in subsection (b)(1)(B)(ii) of this section; and

(3) if the Federal pavilion is temporary, to dismantle, demolish, or otherwise dispose of such Federal pavilion after termination of Federal participation in the exposition.

(d) For the purposes of this section—

(1) a Federal pavilion shall be considered to satisfy both needs described in subsection (b)(1)(B) of this section if the Federal pavilion which satisfies the needs described in paragraph (1)(B)(i) of such subsection can be modified after completion of the exposition to satisfy the needs described in paragraph (1)(B)(ii) of such subsection, provided that such modification shall cost no more than the expense of demolition, dismantling, or other disposal, or if the cost is higher, it shall be no more than 50 per centum of the original cost of the construction of the pavilion; and

(2) a Federal pavilion is temporary if the Federal pavilion is designed to satisfy the minimum needs of the Federal Government described in subsection (b)(1)(B)(i) of this section and is intended for disposal by the Federal Government after the termination of participation in the exposition.

ESTABLISHMENT AND PUBLICATION OF STANDARDS AND CRITERIA

Sec. 4.[6] (a) The Secretary of Commerce is hereby authorized and directed to establish and maintain standards, definitions, and criteria which are adequate to carry out the purposes of section 2(a)(1) and section 3(a) of this Act; and

(b) Standards, definitions, and criteria established by the Secretary and such revisions in them as he may make from time to time shall be published in the Federal Register.

Sec. 5.[7] The President may withdraw Federal recognition or participation whenever he finds that continuing recognition or participation would be inconsistent with the national interest and with the purposes of this Act.

Sec. 6.[8] Nothing in this Act shall affect or limit the authority of Federal departments and agencies to participate in international expositions or events otherwise authorized by law.

Sec. 7. Section 8 of Public Law 89-685 is hereby repealed.

Sec. 8.[9] There are authorized to be appropriated such sums, not to exceed $200,000 in any fiscal year, as may be necessary to carry out the purposes of this Act.

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[6] 22 U.S.C. 2804.

[7] 22 U.S.C. 2805.

[8] 22 U.S.C. 2806.

[9] 22 U.S.C. 2807.

12. Board for International Broadcasting

a. Board for International Broadcasting Act of 1973 (Radio Free Europe/Radio Liberty)

Public Law 93-129 [S. 1914], 87 Stat. 456, approved October 19, 1973; as amended by Public Law 93-392 [S. 3190], 88 Stat. 781, approved August 28, 1974; Public Law 94-104 [S. 2230], 89 Stat. 508, approved October 6, 1975; Public Law 94-350 [S. 3168], 90 Stat. 823, approved July 12, 1976; Public Law 95-105 [H.R. 6689], 91 Stat. 844 at 851, approved August 17, 1977; Public Law 95-426 [Foreign Relations Authorization Act, Fiscal Year 1979; H.R. 12593], 92 Stat. 963 at 975, approved October 7, 1978; Public Law 96-60 [ICA Authorization Act, Fiscal Years 1980 and 1981; H.R. 3363], 93 Stat. 395 at 402, approved August 15, 1979; Public Law 97-241 [S. 1193], 96 Stat. 273, approved August 24, 1982; Public Law 98-164 [Department of State Authorization Act, Fiscal Years 1984 and 1985; H.R. 2915], 97 Stat. 1017 at 1036, approved November 22, 1983; Public Law 99-93 [Foreign Relations Authorization Act, Fiscal Years 1986 and 1987, H.R. 2068], 99 Stat. 405, approved August 16, 1985; and by Public Law 100-204 [Foreign Relations Authorization Act, Fiscal Years 1988 and 1989, H.R. 1777], 101 Stat. 1331, approved December 22, 1987

AN ACT To provide for the establishment of the Board for International Broadcasting, to authorize the continuation of assistance to Radio Free Europe and Radio Liberty, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Board for International Broadcasting Act of 1973".

DECLARATION OF PURPOSES

Sec. 2.[1] The Congress hereby finds and declares—

(1) that it is the policy of the United States to promote the right of freedom of opinion and expression, including the freedom "to seek, receive, and impart information and ideas through any media and regardless of frontiers," in accordance with article 19 of the Universal Declaration of Human Rights;

(2) that open communication of information and ideas among the peoples of the world contributes to international peace and stability, and that the promotion of such communication is in the interests of the United States;

(3) that Free Europe, Incorporated, and the Radio Liberty Committee, Incorporated (commonly referred to as Radio Free Europe and Radio Liberty), which have now been consolidated into RFE/RL, Incorporated,[2] have demonstrated their effectiveness in furthering the open communication of information

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[1] 22 U.S.C. 2871.

[2] Sec. 302(a)(1) of the Foreign Relations Authorization Act, Fiscal Year 1978 (91 Stat. 851) substituted the words to this point beginning with "(commonly referred to * * *" in lieu of "(hereinafter referred to as Radio Free Europe and Radio Liberty),".

and ideas in Eastern Europe and the Union of Soviet Socialist Republics;

(4) that the continuation of RFE/RL, Incorporated, as an[3] independent broadcast media, operating in a manner not inconsistent with the broad foreign policy objectives of the United States and in accordance with high professional standards, is in the national interest; and

(5) that in order to provide an effective instrumentality for the continuation of assistance to RFE/RL, Incorporated[4] and to encourage a constructive dialog with the peoples of the Union of Soviet Socialist Republics, Eastern Europe, and Afghanistan (as long as it is under Soviet occupation),[5] it is desirable to establish a Board for International Broadcasting.

ESTABLISHMENT AND ORGANIZATION

Sec. 3.[6] (a) There is established a Board for International Broadcasting (hereinafter referred to as the "Board").

(b)(1)[7] COMPOSITION OF BOARD.—The Board shall consist of ten members, one of whom shall be an ex officio member. The President shall appoint, by and with the advice and consent of the Senate, nine voting members, one of whom the President shall designate as chairman. Not more than five of the members of the Board appointed by the President shall be of the same political party. The chief operating executive of RFE/RL, Incorporated, shall be an ex officio member of the Board and may participate in the activities of the Board, but may not vote in the determinations of the Board.

(2) SELECTION.—Members of the Board appointed by the President shall be citizens of the United States who are not concurrently regular full-time employees of the United States Government. Such members shall be selected by the President from among Americans distinguished in the fields of foreign policy or mass communications.

(3)[8] TERM OF OFFICE OF PRESIDENTIALLY APPOINTED MEMBERS.—The term of office of each member of the Board appointed by the President shall be three years, except that the terms of office of the individuals initially appointed as the four additional voting members of the Board who are provided for by the Board for International Broadcasting Authorization Act, Fiscal Years 1982 and 1983, shall be one, two, or three years (as designated by the President at the time of their appointment) so that the terms of one-third of the voting members of the Board expire each year. The President shall appoint, by and with the advice and consent of the Senate, members to fill vacancies occurring prior to the expiration of a term, in which case the members so appointed shall serve for the remainder of such term. Any member whose term has expired may serve until his or her successor has been appointed and qualified.

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[3] Sec. 302(a)(2) of the Foreign Relations Authorization Act, Fiscal Year 1978 (91 Stat. 851) substituted the words "RFE/RL, Incorporated, as an" in lieu of "Radio Free Europe and Radio Liberty as".

[4] Sec. 302(a)(3) of the Foreign Relations Authorization Act, Fiscal Year 1978 (91 Stat. 851) substituted the words "RFE/RL, Incorporated" in lieu of "Radio Free Europe and Radio Liberty".

[5] This reference to Afghanistan was added by sec. 303(a) of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99-93, 99 Stat. 405). The Supplemental Appropriations Act, 1985 (Public Law 99-93, 99 Stat. 293) appropriated $500,000 "to promote the development of an independent media service by the Afghan people and to provide for the training of Afghans in media and media-related fields, $500,000, to remain available until September 30, 1986: *Provided,* That the Director, with the Secretary of State, shall report to the appropriate committees of Congress on the obligation of these funds 60 days from the date of enactment of this Act.".

[6] 22 U.S.C. 2872.

[7] Paragraph (1), as amended by sec. 302 of Public Law 94-350, sec. 302 of Public Law 95-105, and sec. 303 of Public Law 95-426, was further amended and restated by sec. 403(b) of Public Law 97-241 (96 Stat. 296). Formerly, the Board was composed of seven members (two ex officio members), five voting members, and only three members of the Board could be of the same political party.

[8] Paragraph (3) was amended and restated by sec. 403(b)(2) of Public Law 97-241 (96 Stat. 296).

(4) [9] TERM OF OFFICE OF THE EX OFFICIO MEMBER.—The ex officio member of the Board shall serve on the Board during his or her term of service as chief operating executive of RFE/RL, Incorporated.

(5) COMPENSATION.—Members of the Board appointed by the President shall, while attending meetings of the Board or while engaged in duties relating to such meetings or in other activities of the Board pursuant to this section, including traveltime, be entitled to receive compensation equal to the daily equivalent of the compensation prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code. While away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 5703) for persons in the Government service employed intermittently. The ex officio member [10] of the Board shall not be entitled to any compensation under this Act, but may be allowed travel expenses as provided in the preceding sentence.

(c) [11] The Board may, to the extent it deems necessary to carry out its functions under this Act, procure supplies, services, and other personal property, including specialized electronic equipment.

FUNCTIONS

Sec. 4.[12] (a) The Board is authorized:

(1) to make grants to RFE/RL, Incorporated,[13] in order to carry out the purposes set forth in section 2 of this Act;

(2) to review and evaluate the mission and operation of RFE/RL, Incorporated,[13] and to assess the quality, effectiveness and professional integrity of its broadcasting within the context of the broad foreign policy objectives of the United States;

(3) to encourage the most efficient utilization of available resources by RFE/RL, Incorporated,[13] and to undertake, or request that RFE/RL, Incorporated,[13] undertake, such studies as may be necessary to identify areas in which the operations of RFE/RL, Incorporated,[13] may be made more efficient and economical;

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[9] Paragraph (4), as amended by sec. 302 of Public Law 94-350, sec. 302 of Public Law 95-105, and sec. 303 of Public Law 95-426, was further amended and restated by sec. 403(b)(2) of Public Law 97-241 (96 Stat. 296).

[10] Sec. 302(a)(3) of the Foreign Relations Authorization Act, Fiscal Year 1977, substituted the words "The ex officio member" in lieu of "Ex officio members".

[11] Subsec. (c) was added by sec. 302(b) of the Foreign Relations Authorization Act, Fiscal Year 1977.

[12] 22 U.S.C. 2873.

[13] Sec. 302(c) of the Foreign Relations Authorization Act, Fiscal Year 1978 (91 Stat. 851), substituted the words "RFE/RL, Incorporated" in lieu of "Radio Free Europe and Radio Liberty".

(4) to develop and apply such financial procedures, and to make such audits of RFE/RL, Incorporated,[13] as the Board may determine are necessary, to assure that grants are applied in accordance with the purposes for which such grants are made;

(5) to develop and apply such evaluative procedures as the Board may determine are necessary to assure that grants are applied in a manner not inconsistent with the broad foreign policy objectives of the United States Government;

(6) to appoint such staff personnel as may be necessary, subject to the provisions of section 5, United States Code, governing appointments in the competitive service, and to fix their compensation in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates;

(7)(A) to procure temporary and intermittent personal services to the same extent as is authorized by section 3109 of title 5, United States Code, at rates not to exceed the daily equivalent of the rate provided for GS–18; and

(B) to allow those providing such services, while away from their homes or their regular places of business, travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently, while so employed;

(8) [14] to make available for its own use or for the use of RFE/RL, Incorporated, for official reception and representational expenses not to exceed $65,000 of the funds made available to carry out this Act each fiscal year;

(9) [14] to report annually to the President and the Congress on or before the 31st day of January,[15] summarizing the activities of the Board during the year ending the preceding September [15] 30, and reviewing and evaluating the operation of RFE/RL, Incorporated,[13] during such year; and

(10) [14] to prescribe such regulations as the Board deems necessary to govern the manner in which its functions shall be carried out.

(b) In carrying out the foregoing functions, the Board shall bear in mind the necessity of maintaining the professional independence and integrity of RFE/RL, Incorporated.[13]

RECORDS; AUDIT; CONTRIBUTORS

Sec. 5.[16] (a) The Board shall require that RFE/RL, Incorporated,[17] keep records which fully disclose the amount and disposition of assistance provided under this Act, the total cost of the undertakings or programs in connection with which such assistance is given or used, that portion of the cost of the undertakings or programs supplied by other sources, and such other records as will facilitate an effective audit.

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[14] Sec. 304 of Public Law 95–426 (92 Stat. 976) redesignated pars. (8) and (9) as pars. (9) and (10), respectively, and added a new par. (8), effective October 1, 1978.

[15] Sec. 302(c) of the Foreign Relations Authorization Act, Fiscal Year 1977 substituted the words "31st day of January" and "September" in lieu of "30th day of October" and "June", respectively.

[16] 22 U.S.C. 2874.

[17] Sec. 302(d)(3) of the Foreign Relations Authorization Act, Fiscal Year 1978 (91 Stat. 852), substituted the words "RFE/RL, Incorporated," in lieu of "Radio Free Europe and Radio Liberty".

(b) The Board and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of RFE/RL, Incorporated,[17] which, in the opinion of the Board or the Comptroller General, may be related or pertinent to the assistance provided under this Act.

(c) No grant may be made under this Act unless RFE/RL Incorporated,[18] agrees to make available, and does make available, for public inspection, during normal business hours at its principal office in the United States, a complete list of every person and government making a contribution to RFE/RL, Incorporated,[19] (including a contribution made to any corporation or other entity having a principal purpose of receiving private contributions on behalf of RFE/RL, Incorporated) [20] during the fiscal year preceding the making of the grant and the fiscal year in which the grant is to be made, the address of the person or government making the contribution, the amount of each such contribution, and the date the contribution was made.

ROLE OF THE SECRETARY OF STATE

Sec. 6. (a) [21] To assist the Board in carrying out its functions, the Secretary of State shall provide the Board with such information regarding the foreign policy of the United States as the Secretary may deem appropriate. The Secretary shall report regularly to the Board on the impact of broadcasts by RFE/RL, Incorporated, in Eastern Europe and the Soviet Union.[21]

(b) [22] No grant may be made under this Act unless RFE/RL, Incorporated, agrees to the presence of an observer representing the Secretary of State at the meetings of its Board of Directors.

PUBLIC SUPPORT

Sec. 7.[23] The Board is authorized to receive donations, bequests, devises, gifts, and other forms of contributions of cash, services, and other property, from persons, corporations, foundations, and all other groups and entities both within the United States and abroad, and, pursuant to the Federal Property Administrative Services Act of 1949, as amended, to use, sell, or otherwise dispose of such property for the carrying out of its functions. For the purposes of sections 170, 2055, and 2522 of the Internal Revenue Code of 1954, as amended (26 U.S.C. 170, 2055, or 2522), the Board shall be deemed to be a corporation described in section 170(c)(2), 2055(a)(2), or 2522(a)(2) of the Code, as the case may be.

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[18] Sec. 302(d)(3) of the Foreign Relations Authorization Act, Fiscal Year 1978 (91 Stat. 852), substituted the words "RFE/RL, Incorporated," in lieu of "the radio to which the grant is to be made".

[19] Sec. 302(d)(3) of the Foreign Relations Authorization Act, Fiscal Year 1978 (91 Stat. 852), substituted the words "RFE/RL, Incorporated," in lieu of "that radio".

[20] The parenthetical phrase was added by sec. 305 of Public Law 95–426 (92 Stat. 976).

[21] 22 U.S.C. 2875. Sec. 305 (a) (1) and (2) of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99–93, 99 Stat. 405), designated this section as sec. (a) and added the text of the second sentence relating to reporting of impact of broadcasts.

[22] Subsec. (b) was added by sec. 305 (a) (3) of the Foreign Relations Authorization Act, Fiscal Year 1986 and 1987 (Public Law 99–93, 99 Stat. 405).

[23] 22 U.S.C. 2876.

AUTHORIZATION OF APPROPRIATIONS

Sec. 8.[24] (a)[25] (1) There are authorized to be appropriated to carry out the purposes of this Act—

(A) $186,000,000 for fiscal year 1988 and $207,424,000 for fiscal year 1989; and

(B) such additional amounts for any fiscal year as may be necessary for increases in salary, pay, retirement, and other employee benefits authorized by law.

(2) In order to maintain the level of operations authorized under paragraph (1) for RFE/RL, Incorporated, there are authorized to be appropriated such additional amounts as may be necessary for any fiscal year to offset adverse fluctuations in foreign currency exchange rates, or overseas wage and price changes,[26] occurring after November 30 of the earlier of (A) the calendar year which ended during the fiscal year preceding such fiscal year, or (B) the calendar year which preceded the calendar year during which the au-

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[24] 22 U.S.C. 2877. Sec. 301 of the Foreign Relations Authorization Act, Fiscal Year 1977, amended sec. 8 which formerly read as follows:

"FINANCING AND IMPLEMENTATION—

"Sec. 8. (a) There are authorized to be appropriated, to remain available until expended, $65,640,000 for fiscal year 1976. There are authorized to be appropriated for fiscal year 1976 such additional or supplemental amounts as may be necessary for increases in salary, pay, retirement, or other employee benefits authorized by law and for other nondiscretionary costs.

"(b) To allow for the orderly implementation of this Act, the Secretary of State is authorized to make grants to Radio Free Europe and to Radio Liberty under such terms and conditions as he deems appropriate for their continued operation until a majority of the voting members of the Board have been appointed and qualified, and until funds authorized to be appropriated under this Act are available to the Board."

[25] Subsec. (a) was amended and restated by sec. 302 of the ICA Authorization Act, Fiscal Years 1980 and 1981 (Public Law 96-60, 93 Stat. 402). Sec. 501(a) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204, 101 Stat. 1383 substituted the authorization figures for fiscal years 1988 and 1989 in lieu of authorization figures for FY 1986 and 1987. Sec. 501(b) of that act made $12,000,000 in each of fiscal years 1988 and 1989 available only for radio transmitter construction and modernization.

Title V the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1989 (Public Law 100-459, 102 Stat. 2186) provided the following:

"BOARD FOR INTERNATIONAL BROADCASTING

"GRANTS AND EXPENSES

"For expenses of the Board for International Broadcasting, including grants to Radio Free Europe/Radio Liberty, Incorporated, as authorized by the Board for International Broadcasting Act of 1973, as amended (22 U.S.C. 2871-2880), $194,900,000, of which not to exceed $52,000 may be made available for official reception and representation expenses as authorized by section 304(a)(8) of the Board for International Broadcasting Act of 1973, as amended (22 U.S.C. 2873(a)(8)).

"ISRAEL RADIO RELAY STATION

"For an additional amount for the Board for International Broadcasting for the purpose of making and overseeing grants to Radio Free Europe/Radio Liberty, Incorporated, and its subsidiaries and of making payments as necessary in order to implement the agreement signed on June 18, 1987, between the United States Government and the Government of Israel to establish and operate a radio relay station in Israel for use by Radio Free Europe/Radio Liberty and the Voice of America, $33,000,000 to remain available until expended."

See also the Board for International Broadcasting Appropriations, 1988 (Public Law 100-202), page 755.

See also sec. 307 of the BIB Authorization Act, Fiscal Years 1984 and 1985, which placed restrictions on the use of funds authorized in sec. 8(a)(1)(A) of this Act.

Authorization figures in recent years included the following: FY 1979—$88,180,000; FY 1980—$81,917,000; FY 1981—$86,787,000; FY 1982—$86,519,000; FY 1983—$111,600,000; FY 1984—$106,055,000; 1985—$111,251,000; 1986—$125,000,000; 1987—$125,000,000.

[26] The words "or overseas wage and price changes," were added by sec. 112(c) of Public Law 97-241 (96 Stat. 278).

thorization of appropriations for such fiscal year was enacted.[27] Amounts appropriated under this paragraph shall be available for obligation and expenditure only to the extent that the Director of the Office of Management and Budget determines (and so certifies to the Congress) is necessary, because of such fluctuations or such changes,[28] in order to maintain the level of operation authorized under paragraph (1) for RFE/RL, Incorporated.

(3) Amounts appropriated under this subsection are authorized to be made available until expended.

(b) [29] Beginning with fiscal year 1983, any amount appropriated under subsection (a)(1) of this section which, because of upward fluctuations in foreign currency exchange rates, is in excess of the amount necessary to maintain the budgeted level of operation for RFE/RI, Incorporated, shall be certified to the Congress by the Director of the Office of Management and Budget and placed in reserve in a separate account in the Treasury only for the purpose of offsetting future downward fluctuations in foreign currency exchange rates in order to maintain the level of operations authorized for each fiscal year. Any such amount may be merged with and made available for the same time period and same purposes as amounts appropriated under subsection (a)(2) of this section.

(c) [30] Of the authorization of appropriations contained in subsection (a)(1)(A), authorizations of $20,000,000 for the fiscal year 1986 and $18,323,000 for the fiscal year 1987, which shall be available for radio modernization, shall remain available until the appropriations are made and when those amounts are appropriated they are authorized to remain available until expended.

USE OF BROADCASTING FACILITIES BY COMMUNIST COUNTRIES

Sec. 9.[31] No funds or other assistance may be provided by the Board under this Act to RFE/RL, Incorporated, if RFE/RL, Incorporated, permits any Communist country (within the meaning of section 620(f) of the Foreign Assistance Act of 1961) to use its broadcasting facilities unless that Communist country permits RFE/RL, Incorporated, to use that country's broadcasting facilities on a comparable basis.

Sec. 10.[32] Under the authority of section 4(a)(3) of this Act, the Board shall prepare and transmit to the Congress, on or before October 1, 1979, a report setting forth alternative plans for the relocation to the territory of the United States of such activities of RFE/RL, Incorporated, as would result in the transfer to the United States of not less than 10 percent, 25 percent, and 50 percent, respectively, of the total personnel of RFE/RL, Incorporated. For each such alternative plan, the report shall include—

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[27] The words to this point beginning with "earlier of (A) the calendar year * * *" were inserted in lieu of the words "preceding fiscal year" by sec. 112(c) of Public Law 97-241 (96 Stat. 278).

[28] The words "or such changes" were added by sec. 112(c) of Public Law 97-241 (96 Stat. 278).

[29] The words following "RFE/RI, Incorporated," and ending in "Any such amount" in subsec. (b) were added by sec. 502 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204, 101 Stat. 1331).

Subsec. (b), as amended by sec. 306 of Public Law 95-426 (92 Stat. 977), was previously amended and restated by sec. 303 of the BIB Authorization Act, Fiscal Year 1984 and 1985 (title III of Public Law 98-164, 97 Stat. 1036). It formerly read as follows:

"(b) The Director of the Office of Management and Budget shall place in reserve and inform the Congress of any amount appropriated under this section which, because of upward fluctuations in foreign currency exchange rates, is in excess of the amount necessary to maintain the budgeted level of operation for RFE/RL, Incorporated."

[30] Subsec. (c) was added by Sec. 302 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99-93, 99 Stat. 405).

[31] 22 U.S.C. 2878. Sec. 9 was added by sec. 307 of Public Law 95-426 (92 Stat. 977).

[32] 22 U.S.C. 2879 note. Sec. 10 was added by sec. 303 of the ICA Authorization Act, Fiscal Years 1980 and 1981 (Public Law 96-60, 93 Stat. 402).

(1) proposals for the timing of such transfer and the recommended location in the United States of such personnel;

(2) estimates of the costs and amortization period for such plan;

(3) a consideration of the impact of such plan on the operating efficiency of RFE/RL, Incorporated, in achieving its program objectives; and

(4) any other significant anticipated consequences of such a relocation.

MERGER OF THE BOARD FOR INTERNATIONAL BROADCASTING AND THE RFE/RL BOARD

Sec. 11.[33] (a) Effective 60 days after the date of enactment of this section, no grant may be made under this Act to RFE/RL, Incorporated, unless the certificate of incorporation of RFE/RL, Incorporated, has been amended to provide that—

(1) the Board of Directors of RFE/RL, Incorporated, shall consist of the members of the Board for International Broadcasting and of no other members, except that the member of the Board for International Broadcasting who is an ex officio member of that Board because of his or her position as chief operating executive of RFE/RL, Incorporated, may participate in the activities of the Board of Directors but may not vote in the determinations of the Board of Directors; and

(2) such Board of Directors shall make all major policy determinations governing the operation of RFE/RL, Incorporated, and shall appoint and fix the compensation of such managerial officers and employees of RFE/RL, Incorporated, as it deems necessary to carry out the purposes of this Act.

(b) Compliance with the requirement of paragraph (1) of subsection (a) shall not be construed to make RFE/RL, Incorporated, a Federal agency or instrumentality.

BENEFITS FOR CERTAIN RETIREES AND SURVIVING SPOUSES OF EMPLOYEES OF RADIO FREE EUROPE AND RADIO LIBERTY

Sec. 12.[34] The Congress hereby authorizes the Board to make available in accordance with the Supplemental Appropriations Act,

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[33] 22 U.S.C. 2880. Sec. 11 was added by sec. 403(a) of Public Law 97-241 (96 Stat. 296).

[34] 22 U.S.C. 2881. Sec. 12 was added by sec. 304 of the BIB Authorization Act, Fiscal Years 1984 and 1985 (title III of Public Law 98-164, 97 Stat. 1036).

The Supplemental Appropriations Act, 1983 (Public Law 98-63, 97 Stat. 307) provided the following:

"For an additional amount for the Board for International Broadcasting, 'Grants and Expenses', $8,017,000 exclusively for grants to Radio Free Europe/Radio Liberty, of which $4,900,000 shall be for the purposes of (1) upgrading pensions and benefits for the Members of the Society of International Broadcasters, who are pre-1976 Radio Free Europe/Radio Liberty retirees, and (2) the RFE/RL Special Widows Project;"

1983, $4,900,000 of the amount appropriated for the Board by that Act for enhancement of (1) the pensions and cost-of-living adjustments of individuals who retired from RFE/RL, Incorporated, before January 1, 1976, and (2) the benefits to which surviving spouses of employees of RFE/RL, Incorporated, are entitled by virtue of the creditable service of such employees rendered before January 1, 1976.

SALARY OF THE RFE/RL PRESIDENT

Sec. 13.[35] Funds made available under this Act to RFE/RL, Incorporated, may not be used for the salary of the President of RFE/RL, Incorporated, at an annual rate in excess of the rate payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

RADIO BROADCASTING TO AFGHANISTAN IN THE DARI AND PASHTO LANGUAGES

Sec. 14.[36] Funds granted to RFE/RL, Incorporated, under this Act may be used for radio broadcasting to the Afghan people in the Dari and Pashto languages, such broadcasts to be designated "Radio Free Afghanistan".

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[35] 22 U.S.C. 2882. Sec. 13 was added by sec. 305(a) of the BIB Authorization Act, Fiscal Years 1984 and 1985 (title III of Public Law 98-164, 97 Stat. 1037). Sec. 305(b) of that Act stated that this new sec. 13 would apply with respect to funds used for the salary of any President of RFE/RL, Inc., who is appointed after the date of enactment of this Act (November 22, 1983).

[36] 22 U.S.C. 2883. This section was added by sec. 303(b) of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99-93, 99 Stat. 405). The Supplemental Appropriations Act, 1985 (Public Law 99-88, 99 Stat 293) appropriated $500,000, "to promote the development of an independent media service by the Afghan people and to provide for the training of Afghans in media and media-related fields, to remain available until September 30, 1986".

b. Board for International Broadcasting Authorization Act, Fiscal Years 1988 and 1989

Partial text of Public Law 100-204 [Foreign Relations Authorization Act, Fiscal Years 1988 and 1989; H.R. 1777], 101 Stat. 1331, approved December 22, 1987

> NOTE.—Sections of this Act amend the Board for International Broadcasting Act of 1973 and have been incorporated into that Act at the appropriate places.

AN ACT To authorize appropriations for fiscal years 1988 and 1989 for the Department of State, the United States Information Agency, the Board for International Broadcasting, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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TITLE V—THE BOARD FOR INTERNATIONAL BROADCASTING

SEC. 501. AUTHORIZATION OF APPROPRIATIONS; ALLOCATION OF FUNDS.

(a)[1] * * *

(b) ALLOCATION OF FUNDS.—Of the funds authorized to be appropriated by section 8(a)(1)(A) of the Board for International Broadcasting Act of 1973, $12,000,000 for the fiscal year 1988 and $12,000,000 for the fiscal year 1989 shall be available only for radio transmitter construction and modernization.

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SEC. 503.[2] CERTIFICATION OF CERTAIN CREDITABLE SERVICE.

The third to last sentence of section 8332(b) of title 5, United States Code, is amended by inserting ", and the Secretary of State with respect to the Asia Foundation and the Secretary of Defense with respect to the Armed Forces Network, Europe (AFN-E)," after "Board for International Broadcasting".

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[1] Sec. 501(a) amended sec. 8(a)(1)(A) of the Board for International Broadcasting Act of 1973 to authorize $186,000,000 for fiscal year 1988 and $207,424,000 for fiscal year 1989 for the Board for International Broadcasting. For text, see page 744.

[2] Sec. 503 transferred authority for making certification to OPM regarding service creditable toward annuity to the Secretary of State with respect to the Asia Foundation and the Secretary of Defense with respect to the Armed Forces Network, Europe. Prior to this amendment, the Director of the Board for International Broadcasting was responsible for such certification.

c. Board for International Broadcasting Authorization Act, Fiscal Years 1986 and 1987

Partial text of Public Law 99-93 [Foreign Relations Authorization Act, Fiscal Years 1986 and 1987; H.R. 2068], 99 Stat. 405 at 434, approved August 16, 1985

> NOTE.—Sections of this Act amend the Board for International Broadcasting Act of 1973 and have been incorporated into that Act at the appropriate places.

AN ACT To authorize appropriations for fiscal years 1986 and 1987 for the Department of State, the United States Information Agency, the Board for International Broadcasting, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

* * * * * * *

TITLE III—BOARD FOR INTERNATIONAL BROADCASTING

SEC. 304. MANAGEMENT OF RFE/RL, INCORPORATED.

(a) FINDINGS.—The Congress finds that—

(1) RFE/RL, Incorporated, is essential to the continued and effective furtherance of the open flow of information and ideas throughout Eastern Europe and the Soviet Union;

(2) effective communication of information and ideas can only be accomplished if the long-term credibility of RFE/RL, Incorporated, operating in accordance with the highest standards of professionalism, is maintained;

(3) the performance of RFE/RL, Incorporated, is dependent on proper management, an objective approach to news, quality programming, and effective oversight;

(4) the Board for International Broadcasting, in addition to making grants, is responsible for overseeing broadcast quality and effectiveness and for overseeing effective utilization of Federal funds;

(5) RFE/RL, Incorporated, is responsible for its own management and for daily broadcasts into Eastern Europe and the Soviet Union;

(6) the Board for International Broadcasting and RFE/RL, Incorporated, must remain very distinct and different institutions if they adhere to the Joint Explanatory Statement of the Committee on Conference relating to the Board for International Broadcasting Authorization Act, Fiscal Years 1982 and 1983; [1]

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[1] 22 USC 2871 note.

(7) the President of RFE/RL, Incorporated, who is responsible for the proper management and supervision of the daily operations of the radios, should devote the necessary resources and personnel to strengthen both the oversight and the quality of programming;

(8) the Board for International Broadcasting, in an effort to preserve or enhance its ability to properly oversee the operations of RFE/RL, Incorporated, must avoid even the appearance of involvement in daily operational decisions and management of RFE/RL, Incorporated; and

(9) the absence of satisfactory pre-broadcast review and the lack of sufficient records of actions taken to explain or remedy program problems identified through post-broadcast review, may endanger the long-term credibility of RFE/RL, Incorporated.

(b) ACTIONS TO BE TAKEN BY RFE/RL.—It is the sense of the Congress that RFE/RL, Incorporated, should—

(1) strengthen existing broadcast control procedures and post-broadcast program analysis; and

(2) improve its personnel management system to include such things as better documentation of internal decisionmaking and communication, personnel review, and job description.

(c) ACTIONS TO BE TAKEN BY BIB.—It is the sense of the Congress that the Board for International Broadcasting should—

(1) periodically review and update the Program Policy Guidelines of RFE/RL, Incorporated, with the goal of maintaining their clarity and responsiveness; and

(2) ensure that the distinctions between the Board for International Broadcasting and RFE/RL, Incorporated, remain clear and that these two entities continue to operate within the framework established by law.

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SEC. 305. ROLE OF THE SECRETARY OF STATE

(a) * * *

(b) [2] LIAISON WITH RFE/RL, INCORPORATED; REPRESENTATION AT BOARD MEETINGS.—The Secretary of State shall—

(1) establish an office within the United States Consulate in Munich, Federal Republic of Germany, which shall be responsible for the daily liaison operations of the Department of State with RFE/RL, Incorporated; and

(2) be represented by an observer at each meeting of the Board for International Broadcasting and of the Board of Directors of RFE/RL, Incorporated.

SEC. 306. TASK FORCE WITH RESPECT TO BROADCASTS TO SOVIET JEWRY.

(a) ESTABLISH TASK FORCE.—There shall be established by the Board for International Broadcasting a task force to conduct a study of the advisability and feasibility of increasing broadcasts to the Jewish population within the Soviet Union.

(b) STUDY.—The Task Force shall—

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[2] 22 USC 2875 note.

(1) investigate the needs of Jewish audiences in the Soviet Union;

(2) study the practicality and desirability of establishing a special program, in accordance with the Program Policy Guidelines of RFE/RL, Inc., of Russian language broadcasting to the Jewish population of the Soviet Union;

(3) study the advisability of incorporating such a special program in a special unit of its Radio Liberty division entitled the "Radio Maccabee Program of Radio Liberty";

(4) make recommendations with respect to the desirable content of broadcast programming; and

(5) identify the needs and concerns of the activist as well as the refusnik population in the Soviet Union.

(c) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Board for International Broadcasting shall submit a report to the Congress. Such report shall include the following:

(1) Whether expansion of original programming scheduled ("Jewish Cultural and Social Life") or planned ("Judaism") is fulfilling the needs of the audience, and whether expanded Soviet-Jewish programming should include broadcasts on Jewish history, culture, religion, or other matters of general cultural, intellectual, political, and religious interest to the Soviet Jewish population, as well as Hebrew education courses.

(2) The extent to which such programming is broadcast in Russian, Hebrew, and Yiddish.

(3) Recommendations for implementing expanded programming within the structure of RFE/RL, Inc., including specific personnel required and providing for a Soviet Jewry administrative unit within Radio Liberty.

(4) The findings of, and the recommendations from, the study required under subsection (b).

(d) MACCABEE PROGRAMMING.—RFE/RL, Incorporated, shall strengthen existing programming dealing with issues of concern to Jewish audiences in the Soviet Union, to be known as Maccabee programming.

(e) EXISTING PERSONNEL TO CONDUCT STUDY AND MAKE REPORT.—The study and the report required by this section shall be carried out by existing personnel of RFE, Inc., or the Board of International Broadcasting.

d. Board for International Broadcasting Authorization Act, Fiscal Years 1984 and 1985

Partial text of Public Law 98-164 [H.R. 2915], 97 Stat. 1017, at 1036, approved November 22, 1983

NOTE.—Sections of this Act amend the Board for International Broadcasting Act of 1973 and have been incorporated into that Act at the appropriate places.

AN ACT To authorize appropriations for fiscal years 1984 and 1985 for the Department of State, the United States Information Agency, the Board for International Broadcasting, the Inter-American Foundation, and the Asia Foundation, to establish the National Endowment for Democracy, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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TITLE III—BOARD FOR INTERNATIONAL BROADCASTING

SHORT TITLE

Sec. 301. This title may be cited as the "Board for International Broadcasting Authorization Act, Fiscal Years 1984 and 1985".

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SALARY OF THE RFE/RL PRESIDENT

Sec. 305. (a) [1] * * *

(b) The amendment made by this section applies with respect to funds used for the salary of any President of RFE/RL, Incorporated, who is appointed after the date of enactment of this Act.

POLICY ON BROADCASTS OF RFE/RL AND THE VOICE OF AMERICA CONCERNING SOVIET RELIGIOUS PERSECUTION

Sec. 306. It is the sense of the Congress that RFE/RL, Incorporated (commonly known as Radio Free Europe and Radio Liberty) and the Voice of America (VOA) are to be commended for their news and editorial coverage of the increasing religious persecution in the Soviet Union, including the declining levels of Jewish emigration, and are encouraged to intensify their efforts in this regard.

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[1] Sec. 305(a) added a new sec. 13 to the Board for International Broadcasting Act of 1973 regarding the salary of the RFE/RL President.

BALTIC DIVISION

Sec. 307. None of the funds authorized to be appropriated by the amendment made by section 302 of this Act [2] may be used for a grant to RFE/RL, Incorporated unless—

(1) the Estonian, Latvian, and Lithuanian radio services of RFE/RL, Incorporated, are organized as a separate division within Radio Liberty; and

(2) those radio services begin broadcasts under a name which would accurately reflect United States policy of not recognizing the illegal incorporation of Estonia, Latvia, and Lithuania into the Soviet Union.

POLICY ON THE JAMMING BY THE SOVIET UNION OF BROADCASTS OF THE VOICE OF AMERICA AND RFE/RL

Sec. 308. (a) The Congress finds that—

(1) the permanent unrestrained flow of accurate information would greatly facilitate mutual understanding and world peace;

(2) the Soviet Union and its allies are at present electronically jamming the broadcasts of the Voice of America and RFE/RL, Incorporated (commonly known as Radio Free Europe and Radio Liberty); and

(3) electronic jamming of international broadcasts violates at least four international agreements: Article 35(1) of the International Telecommunications Union Convention, Article 19 of the Universal Declaration of Human Rights, Article 19 of the International Covenant on Civil and Political Rights, and the Final Act of the Conference on Security and Cooperation in Europe (commonly known as the Helsinki Accords).

(b) it is the sense of the Congress that the President should urge the Government of the Soviet Union to terminate its jamming of the broadcasts of the Voice of America and RFE/RL, Incorporated.

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[2] Sec. 302 amended sec. 8 of the Board for International Broadcasting Act of 1973 by authorizing the appropriation of funds for fiscal years 1984 and 1985.

e. Board for International Broadcasting Appropriations

(1) Board for International Broadcasting Appropriations, 1989

Partial text of Public Law 100-459 [Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, 1989; H.R. 4782], 102 Stat. 2186 at 2214, approved October 1, 1988

AN ACT Making appropriations for the Departments of Commerce, Justice, and State, the Judiciary and related agencies for the fiscal year ending September 30, 1989, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1989, and for other purposes, namely:

* * * * * * *

TITLE V—RELATED AGENCIES

* * * * * * *

Board for International Broadcasting

GRANTS AND EXPENSES

For expenses of the Board for International Broadcasting, including grants to Radio Free Europe/Radio Liberty, Incorporated as authorized by the Board for International Broadcasting Act of 1973, as amended (22 U.S.C. 2781-2880), $194,900,000, of which not to exceed $52,000 may be made available for official reception and representation expenses as authorized by section 304(a)(8) of the Board for International Broadcasting Act of 1973, as amended (22 U.S.C. 2873(a)(8)).

ISRAEL RADIO RELAY STATION

For an additional amount for the Board for International Broadcasting for the purpose of making and overseeing grants to Radio Free Europe/Radio Liberty, Incorporated, and its subsidiaries and of making payments as necessary in order to implement the agreement signed on June 18, 1987, between the United States Government and the Government of Israel to establish and operate a radio relay station in Israel for use by Radio Free Europe/Radio Liberty and the Voice of America, $33,000,000 to remain available until expended.

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(2) Board for International Broadcasting Appropriations, 1988

Partial text of Public Law 100-202 [Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, 1988; title V of Sec. 101(a) of the Continuing Appropriations Act, 1988; H.J. Res. 395], 101 Stat. 1329, approved December 22, 1987

JOINT RESOLUTION Making continuing appropriations for the fiscal year 1988, and for other purposes.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

* * * * * * *

The following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1988, and for other purposes, namely:

SEC. 101. (a) Such amounts as may be necessary for programs, projects or activities provided for in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1988, at a rate of operations and to the extent and in the manner provided for, the provisions of such Act to be effective as if it had been enacted into law as the regular appropriations Act, as follows:

AN ACT Making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1988, and for other purposes.

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TITLE V—RELATED AGENCIES

* * * * * * *

BOARD FOR INTERNATIONAL BROADCASTING

GRANTS AND EXPENSES

Notwithstanding section 501(b) of title V of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989, for [1] expenses of

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[1] The Dire Emergency Supplemental Appropriations Act, 1988 (Public Law 100-393, 102 Stat. 969) added "Notwithstanding * * * for" to this sentence; deleted "of which $20,000,000, to remain available until expended, shall become available for expenditure on October 1, 1988, and" after "$185,000,000"; and provided the following:

"*Provided*, That for purposes of section 202 of Public Law 100-119 (H.J. Res. 324, 100th Congress), this action is a necessary (but secondary) result of a significant policy change."

Sec. 202 of Public Law 100-119 (Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, 101 Stat. 754 at 784) prohibited the "counting as savings the transfer of government actions from one year to another" except where it is stipulated that such transfer was a

Continued

the Board for International Broadcasting, including grants to RFE/RL, Inc., $185,000,000,[1] of which not to exceed $52,000 may be made available for official reception and representation expenses.

ISRAEL RADIO RELAY STATION

There is hereby appropriated the sum of $34,000,000, to remain available until expended, to the Board for International Broadcasting for the purpose of making and overseeing grants to Radio Free Europe/Radio Liberty, Incorporated, and its subsidiaries and of making payments as necessary in order to begin implementation of the agreement signed on June 18, 1987, between the United States Government and the Government of Israel to establish and operate a radio relay station in Israel for use by Radio Free Europe/Radio Liberty and the Voice of America

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GENERAL PROVISIONS—RELATED AGENCIES

Funds appropriated to the United States Information Agency for radio construction and to the Board for International Broadcasting for facility modernization, including for both agencies balances available from prior years, may be transferred between the two agencies to meet priority broadcasting facility improvement needs as mutually agreed to by the Director of the United States Information Agency and the Chairman of the Board for International Broadcasting: *Provided,* That such transfers will be subject to the approval of the Committees on Appropriations of the House of Representatives and the United States Senate pursuant to the reprogramming provision of section 608 of this Act.

"necessary (but secondary) result of a significant policy change", provided for contingencies, or achieved "savings made possible by changes in program requirements or by greater efficiency of operations.".

13. Radio Broadcasting to Cuba Act

Public Law 98-111 [S. 602], 97 Stat. 749, approved October 4, 1983; as amended by Public Law 98-411 [H.R. 5712], 98 Stat. 1545 at 1574, approved August 30, 1984

AN ACT To provide for the broadcasting of accurate information to the people of Cuba, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Radio Broadcasting to Cuba Act".

FINDINGS; PURPOSES

Sec. 2.[1] The Congress finds and declares—

(1) that it is the policy of the United States to support the right of the people of Cuba to seek, receive, and impart information and ideas through any media and regardless of frontiers, in accordance with article 19 of the Universal Declaration of Human Rights;

(2) that, consonant with this policy, radio broadcasting to Cuba may be effective in furthering the open communication of accurate information and ideas to the people of Cuba, in particular information about Cuba;

(3) that such broadcasting to Cuba, operated in a manner not inconsistent with the broad foreign policy of the United States and in accordance with high professional standards, would be in the national interest; and

(4) that the Voice of America already broadcasts to Cuba information that represents America, not any single segment of American society, and includes a balanced and comprehensive projection of significant American thought and institutions but that there is a need for broadcasts to Cuba which provide news, commentary and other information about events in Cuba and elsewhere to promote the cause of freedom in Cuba.

ADDITIONAL FUNCTIONS OF THE UNITED STATES INFORMATION AGENCY

Sec. 3.[2] (a) In order to carry out the objectives set forth in section 2, the United States Information Agency (hereafter in this Act referred to as the "Agency") shall provide for the open communication of information and ideas through the use of radio broadcasting to Cuba. Radio broadcasting to Cuba shall serve as a consistently reliable and authoritative source of accurate, objective, and comprehensive news.

(b) Radio broadcasting in accordance with subsection (a) shall be part of the Voice of America radio broadcasting to Cuba and shall be in accordance with all Voice of America standards to ensure the broadcast of programs which are objective, accurate, balanced, and which present a variety of views.

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[1] 22 U.S.C. 1465.

[2] 22 U.S.C. 1465a.

(c) Radio broadcasting to Cuba authorized by this Act shall utilize the broadcasting facilities located at Marathon, Florida, and the 1180 AM frequency that were used by the Voice of America prior to the date of enactment of this Act. Other frequencies, not on the commercial Amplitude Modulation (AM) Band (535 kHz to 1605 kHz), may also be simultaneously utilized: *Provided,* That no frequency shall be used for radio broadcasts to Cuba in accordance with this Act which is not also used for all other Voice of America broadcasts to Cuba. Time leased from nongovernmental shortwave radio stations may be used to carry all or part of the Service programs and to rebroadcast Service programs: *Provided,* That not less than 30 per centum of the programs broadcast or rebroadcast shall be regular Voice of America broadcasts with particular emphasis on news and programs meeting the requirements of section 503(2) of Public Law 80-402.

(d) Notwithstanding subsection (c), in the event that broadcasts to Cuba on the 1180 AM frequency are subject to jamming or interference greater by 25 per centum or more than the average daily jamming or interference in the twelve months preceding September 1, 1983, the Director of the United States Information Agency may lease time on commercial or noncommercial educational AM band radio broadcasting stations. The Federal Communications Commission shall determine levels of jamming and interference by conducting regular monitoring of the 1180 AM frequency. In the event that more than two hours a day of time is leased, not less than 30 per centum of the programing broadcast shall be regular Voice of America broadcasts with particular emphasis on news and programs meeting the requirements of section 503(2) of Public Law 80-402.

(e) Any program of United States Government radio broadcasts to Cuba authorized by this section shall be designated "Voice of America: Cuba Service" or "Voice of America: Radio Marti program".

(f) In the event broadcasting facilities located at Marathon, Florida, are rendered inoperable by natural disaster or by unlawful destruction, the Director of the United States Information Agency may, for the period in which the facilities are inoperable but not to exceed one hundred and fifty days, use other United States Government-owned transmission facilities for Voice of America broadcasts to Cuba authorized by this Act.

CUBA SERVICE OF THE VOICE OF AMERICA

Sec. 4.[3] The Director of the United States Information Agency shall establish within the Voice of America a Cuba Service (hereafter in this section referred to as the "Service"). The Service shall be responsible for all radio broadcasts to Cuba authorized by section 3. The Director of the United States Information Agency shall appoint a head of the Service and shall employ such staff as the head of the Service may need to carry out his duties. The Cuba Service shall be administered separately from other Voice of America functions and the head of the Cuba Service shall report directly to the Director and the Associate Director for Broadcasting of the United States Information Agency.

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[3] 22 U.S.C. 1465b.

BOARD FOR RADIO BROADCASTING TO CUBA

Sec. 5.[4] (a) There is established within the Office of the President the Advisory Board for Radio Broadcasting to Cuba (hereafter in this Act referred to as the "Board"). The Board shall consist of nine members, appointed by the President by and with the advice and consent of the Senate, of whom not more than five shall be members of the same political party. The President shall designate one member of the Board to serve as Chairman.

(b) The Board shall review the effectiveness of the activities carried out under this Act and shall make such recommendations to the President, the Director and the Associate Director for Broadcasting of the United States Information Agency as it may deem necessary.

(c) In appointing the initial voting members of the Board, the President shall designate three members to serve for a term of three years, three members to serve for a term of two years, and three members to serve for a term of one year. Thereafter, the term of each member of the Board shall be three years. The President shall appoint, by and with the advice and consent of the Senate, members to fill vacancies occurring prior to the expiration of a term, in which case the members so appointed shall serve for the remainder of such term. Any member whose term has expired may serve until his successor has been appointed and qualified.

(d) The head of the Service shall serve, ex officio, as a member of the Board.

(e) Members of the Board appointed by the President shall, while attending meetings of the Board or while engaged in duties relating to such meetings or in other activities of the Board pursuant to this section, including traveltime, be entitled to receive compensation equal to the daily equivalent of the compensation prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code. While away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 5703) for persons in the Government service employed intermittently. The ex officio member of the Board shall not be entitled to any compensation under this section, but may be allowed travel expenses as provided in the preceding sentence.

(f) The Board may, to the extent it deems necessary to carry out its functions under this section, procure supplies, services, and other personal property, including specialized electronic equipment.

(g) Notwithstanding any other provision of law, the Board shall remain in effect indefinitely.

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[4] 22 U.S.C. 1465c.

(h) There are authorized to be appropriated $130,000 to carry out the provisions of this section.

ASSISTANCE FROM OTHER GOVERNMENT AGENCIES

Sec. 6.[5] (a) In order to assist the United States Information Agency in carrying out the purposes set forth in section 2, any agency or instrumentality of the United States may sell, loan, lease, or grant property (including interests therein) and may perform administrative and technical support and services at the request of the Agency. Support and services shall be provided on a reimbursable basis. Any reimbursement shall be credited to the appropriation from which the property, support, or services was derived.

(b) The Agency may carry out the purposes of section 3 by means of grants, leases, or contracts (subject to the availability of appropriations), or such other means as the Agency determines will be most effective.

FACILITY COMPENSATION

Sec. 7.[6] (a) It is the intent of the Congress that the Secretary of State should seek prompt and full settlement of United States claims against the Government of Cuba arising from Cuban interference with broadcasting in the United States. Pending the settlement of these claims, it is appropriate to provide some interim assistance to the United States broadcasters who are adversely affected by Cuban radio interference and who seek to assert their right to measures to counteract the effects of such interference.

(b) Accordingly, the Agency may make payments to the United States radio broadcasting station licensees upon their application for expenses which they have incurred before, on or after the date of this Act in mitigating, pursuant to special temporary authority from the Federal Communications Commission, the effects of activities by the Government of Cuba which directly interfere with the transmission or reception of broadcasts by these licensees. Such expenses shall be limited to the costs of equipment replaced [7] (less depreciation) and associated technical and engineering costs.

(c) The Federal Communications Commission shall issue such regulations and establish such procedures for carrying out this section as the Federal Communications Commission finds appropriate. Such regulations shall be issued no later than one hundred and eighty days after enactment of this Act.

(d) There are authorized to be appropriated to the Agency, $5,000,000 for use in compensating United States radio broadcasting licensees pursuant to this section. Amounts appropriated under this section are authorized to be available until expended.

(e) Funds appropriated for implementation of this section shall be available for a period of no more than four years following the initial broadcast occurring as a result of programs described in this Act.

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[5] 22 U.S.C. 1465d.

[6] 22 U.S.C. 1465e.

[7] Sec. 512 of Public Law 98-411 (98 Stat. 1574), moved the parenthetical bracket in subsec. (b) from before "replaced" to before "less."

(f) It is the sense of the Congress that the President should establish a task force to analyze the level of interference from the operation of Cuban radio stations experienced by broadcasters in the United States and to seek a practical political and technical solution to this problem.

(g) This section shall enter into effect on October 1, 1984.

AUTHORIZATION OF APPROPRIATIONS

Sec. 8.[8] (a) There are authorized to be appropriated for the United States Information Agency $14,000,000 for fiscal year 1984,[9] and $11,000,000 for fiscal year 1985 to carry out sections 3 and 4 of this Act. The amount obligated by the United States Information Agency in ensuing fiscal years shall be sufficient to maintain broadcasts to Cuba under this Act at rates no less than the fiscal year 1985 level.

(b) In addition to amounts otherwise authorized to be appropriated to the Agency for the fiscal years 1984 and 1985, there are authorized to be appropriated to the Agency $54,800,000 for the fiscal year 1984 and $54,800,000 for the fiscal year 1985, which amounts shall be available only for expenses incurred by essential modernization of the facilities and operations of the Voice of America.

(c) Amounts appropriated under this section are authorized to be made available until expended.

INDEPENDENT EVALUATION OF THE CUBA SERVICE

Sec. 9.[10] The United States Information Agency shall arrange, by contract if necessary, an independent evaluation of Cuba Service programing, the results of which are to be set forth in a report to be prepared and transmitted to the Agency eighteen months after the date of enactment of this Act and at intervals of one year thereafter for the following three years. The Agency shall, not later than thirty days after the date of receipts of such report, transmit to the Congress such report, together with any recommendations for legislative action.

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[8] 22 U.S.C. 1465f.

[9] Authorization figures for fiscal years 1988 and 1989 may be found at title IV of the Foreign Relations Authorization Act, 1988 and 1989 (Public Law 100-204, 101 Stat. 1381). For text, see page 626.

[10] 22 U.S.C. 1465g.

14. Commission on Security and Cooperation in Europe

a. Establishing a Commission on Security and Cooperation in Europe

Public Law 94-304 [S. 2679], 90 Stat. 661, approved June 3, 1976; as amended by Public Law 94-534 [H.R. 15813], 90 Stat. 2495, approved October 17, 1976; Public Law 95-426 [Foreign Relations Authorization Act, Fiscal Year 1979; H.R. 12598], 92 Stat. 963 at 992, approved October 7, 1978; Public Law 96-60 [H.R. 3363], 93 Stat. 395 at 403, approved August 15, 1979; Public Law 99-7 [S. 592], 99 Stat. 19, approved March 27, 1985, and by Public Law 99-190 [H.R. 465], 99 Stat. 1322, approved December 19, 1985

AN ACT To establish a Commission on Security and Cooperation in Europe.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,[1] That there is established the Commission on Security and Cooperation in Europe (hereafter in this Act referred to as the "Commission").

Sec. 2.[2] The Commission is authorized and directed to monitor the acts of the signatories which reflect compliance with or violation of the articles of the Final Act of the Conference on Security and Cooperation in Europe, with particular regard to the provisions relating to human rights and [3] Cooperation in Humanitarian Fields. The Commission is further authorized and directed to monitor and encourage the development of programs and activities of the United States Government and private organizations with a view toward taking advantage of the provisions of the Final Act to expand East-West economic cooperation and a greater interchange of people and ideas between East and West.

Sec. 3.[4] The Commission shall be composed of twenty-one members as follows:

(1) Nine Members of the House of Representatives appointed by the Speaker of the House of Representatives. Five Members shall be selected from the majority party and four Members

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[1] 22 U.S.C. 3001.

[2] 22 U.S.C. 3002.

[3] The words "human rights and" were added by sec. 2 of Public Law 99-7 (99 Stat. 18).

[4] 22 U.S.C. 3003. Sec. 3 was amended and restated by secs. (1)(a) and (b) of Public Law 99-7, (99 Stat. 18). It previously read as follows:

"Sec. 3. The Commission shall be composed of fifteen members as follows:

"(1) Six Members of the House of Representatives appointed by the Speaker of the House of Representatives. Four members shall be selected from the majority party and two shall be selected, after consultation with the minority leader of the House, from the minority party. The Speaker shall designate one of the House Members as chairman.

"(2) Six Members of the Senate appointed by the President of the Senate. Four members shall be selected from the majority party and two shall be selected, after consultation with the minority leader of the Senate, from the minority party.

"(3) One member of the Department of State appointed by the President of the United States.

"(4) One member of the Defense Department appointed by the President of the United States.

"(5) One member of the Commerce Department appointed by the President of the United States."

shall be selected, after consultation with the minority leader of the House, from the minority party.

(2) Nine Members of the Senate appointed by the President of the Senate. Five Members shall be selected from the majority party of the Senate, after consultation with the majority leader, and four Members shall be selected, after consultation with the minority leader of the Senate, from the minority party.

(3) One member of the Department of State appointed by the President of the United States.

(4) One member of the Department of Defense appointed by the President of the United States.

(5) One member of the Department of Commerce appointed by the President of the United States.

(b) There shall be a Chairman and a Cochairman of the Commission.

(c) [5] At the beginning of each odd-numbered Congress, the President of the Senate, on the recommendation of the majority leader, shall designate one of the Senate Members as Chairman of the Commission. At the beginning of each even-numbered Congress, the Speaker of the House of Representatives shall designate one of the House Members as Chairman of the Commission.

(d) [5] At the beginning of each odd-numbered Congress, the Speaker of the House of Representatives shall designate one of the House Members as Cochairman of the Commission. At the beginning of each even-numbered Congress, the President of the Senate, on the recommendation of the majority leader, shall designate one of the Senate Members as Cochairman of the Commission.

Sec. 4.[6] In carrying out this Act, the Commission may require, by subpena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents as it deems necessary. Subpenas may be issued over the signature of the Chairman of the Commission or any member designated by him, and may be served by any person designated by the Chairman or such member. The Chairman of the Commission, or any member designated by him, may administer oaths to any witness.

Sec. 5.[7] In order to assist the Commission in carrying out its duties, the President shall submit to the Commission a semiannual report, the first one to be submitted six months after the date of enactment of this Act, which shall include (1) a detailed survey of actions by the signatories of the Final Act reflecting compliance with or violation of the provisions of the Final Act, and (2) a listing and description of present or planned programs and activities of the appropriate agencies of the executive branch and private organizations aimed at taking advantage of the provisions of the Final Act to expand East-West economic cooperation and to promote a greater interchange of people and ideas between East and West.

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[5] Sec. 6(b)(1) of Public Law 99-7 (99 Stat. 14), provided that the provisions of sec. 3(c) and (d) shall take effect on the first day of the One Hundredth Congress. Sec. 3(c) of Public Law 99-7, (99 Stat. 18) further stated:

"On the effective date of this subsection, the President of the Senate, on the recommendation of the majority leader, shall designate one of the Senate Members to serve as Chairman of the Commission for the duration of the Ninety-ninth Congress, and the Speaker of the House of Representatives shall designate one of the House Members to serve as Cochairman of the Commission for the duration of the Ninety-ninth Congress."

[6] 22 U.S.C. 3004.

[7] 22 U.S.C. 3005.

Sec. 6.[8] The Commission is authorized and directed to report to the House of Representatives and the Senate with respect to the matters covered by this Act on a periodic basis and to provide information to Members of the House and Senate as requested. For each fiscal year for which an appropriation is made the Commission shall submit to Congress a report on its expenditures under such appropriation.

Sec. 7. (a)(1) [9, 10] There are authorized to be appropriated to the Commission for each fiscal year such sums as may be necessary to enable it to carry out its duties and functions. Appropriations to the Commission are authorized to remain available until expended.

(2) [10] Appropriations to the Commission shall be disbursed on vouchers approved—

(A) jointly by the Chairman and the Cochairman, or

(B) by a majority of the members of the personnel and administration committee established pursuant to section 8(a).

(b) [11] For purposes of section 502(b) of the Mutual Security Act of 1954, the Commission shall be deemed to be a standing committee of the Congress and shall be entitled to use of funds in accordance with such sections.

(c) [12] Not to exceed $6,000 of the funds appropriated to the Commission for each fiscal year may be used for official reception and representational expenses.

(d) [13] Foreign travel for official purposes by Commission members and staff may be authorized by either the Chairman or the Cochairman.

Sec. 8.[14] (a) The Commission shall have a personnel and administration committee composed of the Chairman, the Cochairman, the senior Commission member from the minority party in the House of Representatives, and the senior Commission member from the minority party in the Senate.

(b) All decisions pertaining to the hiring, firing, and fixing of pay of Commission staff personnel shall be by a majority vote of the personnel and administration committee, except that—

(1) the Chairman shall be entitled to appoint and fix the pay of the staff director, and the Cochairman shall be entitled to appoint and fix the pay of his senior staff person; and

(2) the Chairman and Cochairman each shall have the authority to appoint, with the approval of the personnel and ad-

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[8] 22 U.S.C. 3006.

[9] 22 U.S.C. 3007(a).

[10] Secs. 7(a)(1) and (2) were amended and restated by Public Law 99-7, 99 Stat. 18. Previously, sec. 702 of Public Law 95-426 authorized $550,000 to assist in meeting the expenses of the Commission. This latter authorization replaced a previous one of $350,000.

[11] Subsec. (b) was added by Public Law 94-534.

[12] Subsec. (c) was added by sec. 401 of the Department of State Authorization Act, Fiscal Years 1980 and 1981 (Public Law 96-60, 93 Stat. 403).

[13] Subsec. (d) was added by sec. 4 of Public Law 99-7, 99 Stat. 18.

[14] 22 U.S.C. 3008. Sec. 8 was amended and restated by sec. 5 of Public Law 99-7 (99 Stat. 18). It previously read as follows:

"Sec. 8. The Commission may appoint and fix the pay of such staff personnel as it deems desirable, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and general schedule pay rates."

ministration committee, at least four professional staff members who shall be responsible to the Chairman or the Cochairman (as the case may be) who appointed them.

The personnel and administration committee may appoint and fix the pay of such other staff personnel as it deems desirable.

(c) All staff appointments shall be made without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and general schedule pay rates.

(d) [15] (1) For purposes of pay and other employment benefits, rights, and privileges and for all other purposes, any employee of the Commission shall be considered to be a congressional employee as defined in section 2107 of title 5, United States Code.

(2) For purposes of section 3304(c)(1) of title 5, United States Code, staff personnel of the Commission shall be considered as if they are in positions in which they are paid by the Secretary of the Senate or the Clerk of the House of Representatives.

(3) The provisions of paragraphs (1) and (2) of this subsection shall be effective as of June 3, 1976.

Sec. 9.[16] For purposes of costs relating to printing and binding, including the costs of personnel detailed from the Government Printing Office, the Commission shall be deemed to be a committee of the Congress.

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[15] Sec. 6(b)(2) of Public Law 99-7, 99 Stat. 14, provided that subsec. (d) shall be effective as of June 3, 1976.

[16] Sec. 9 was added by sec. 134 of the Further Continuing Appropriations Act, Fiscal Year 1986 (Public Law 99-190, 99 Stat. 1322).

b. Commission on Security and Cooperation in Europe Appropriations, 1989

Partial text of Public Law 100-459 [Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, 1989; H.R. 4782], 102 Stat. 2186 at 2215, approved October 1, 1988

AN ACT Making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1989, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1989, and for other purposes, namely:

* * * * * * *

TITLE V—RELATED AGENCIES

* * * * * * *

COMMISSION ON SECURITY AND COOPERATION IN EUROPE

SALARIES AND EXPENSES

For necessary expenses of the Commission on Security and Cooperation in Europe, as authorized by Public Law 94-304, $741,000, to remain available until expended as authorized by section 3 of Public Law 99-7.

* * * * * * *

c. Helsinki Human Rights Day

Public Law 100-377 [S.J. Res. 338], 102 Stat. 883, approved August 1, 1988

JOINT RESOLUTION To designate August 1, 1988, as "Helsinki Human Rights Day".

Whereas August 1, 1988, will be the thirteenth anniversary of the signing of the Final Act of the Conference on Security and Cooperation in Europe (hereafter in this preamble referred to as the "Helsinki accords");

Whereas on August 1, 1975, the Helsinki accords were agreed to by the Governments of Austria, Belgium, Bulgaria, Canada, Cyprus, Czechoslovakia, Denmark, Finland, France, the German Democratic Republic, the Federal Republic of Germany, Greece, the Holy See, Hungary, Iceland, Ireland, Italy, Liechtenstein, Luxembourg, Malta, Monaco, the Netherlands, Norway, Poland, Portugal, Romania, San Marino, Spain, Sweden, Switzerland, Turkey, the Union of Soviet Socialist Republics, the United Kingdom, the United States of America, and Yugoslavia;

Whereas the participating States have committed themselves to balanced progress in all areas of the Helsinki accords;

Whereas the Helsinki accords recognize the inherent relationship between respect for human rights and fundamental freedoms and the attainment of genuine security;

Whereas the Helsinki accords express the commitment of the participating States to "recognize the universal significance of human rights and fundamental freedoms, respect for which is an essential factor for the peace, justice and well-being necessary to ensure the development of friendly relations and cooperation among themselves as among all States";

Whereas the Helsinki accords also express the commitment of the participating States to "respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief, for all without distinction as to race, sex, language or religion";

Whereas the Helsinki accords also express the commitment of the participating States to "promote and encourage the effective exercise of civil, political, economic, social, cultural and other rights and freedoms all of which derive from the inherent dignity of the human person and are essential for his free and full development";

Whereas the Helsinki accords also express the commitment of the participating States to "recognize and respect the freedom of the individual to profess and practice, alone or in community with others, religion or belief acting in accordance with the dictates of his own conscience";

Whereas the Helsinki accords also express the commitment of the participating States on whose territory national minorities exist to "respect the right of persons belonging to such minorities to equality before the law" and that such States "will afford them the full opportunity for the actual enjoyment of human rights and fundamental freedoms and will in this manner, protect their legitimate interests in this sphere";

Whereas the Helsinki accords also express the commitment of the participating States to "constantly respect these rights and freedoms in their mutual relations" and that such States "will endeavor jointly and separately, including in cooperation with the United Nations, to promote universal and effective respect for them";

Whereas the Helsinki accords also express the commitment of the participating States to "conform the right of the individual to know and act upon his rights and duties in this field";

Whereas the Helsinki accords also express the commitment of the participating States in the field of human rights and fundamental freedoms to "act in conformity with the purposes and principles of the Charter of the United Nations and with the Universal Declaration of Human Rights" and to "fulfill their obligations as set forth in the international declarations and agreements in this field, including inter alia the International Covenants on Human Rights, by which they may be bound";

Whereas the Helsinki accords by incorporation also express the commitment of the participating States to guarantee the right of the individual to leave his own country and return to such country;

Whereas the Helsinki accords also express the commitment of the participating States to "facilitate freer movement and contacts, individually and collectively, whether privately or officially, among persons, institutions and organizations of the participating States, and to contribute to the solution of the humanitarian problems that arise in that connection";

Whereas the Helsinki accords also express the commitment of the participating States to "favorably consider applications for travel with the purpose of allowing persons to enter or leave their territory temporarily, and on a regular basis if desired, in order to visit members of their families";

Whereas the Helsinki accords also express the commitment of the participating States to "deal in a positive and humanitarian spirit with the applications of persons who wish to be reunited with members of their family" and "to deal with applications in this field as expeditiously as possible";

Whereas the Helsinki accords also express the commitments of the participating States to "examine favorably and on the basis of humanitarian considerations requests for exit or entry permits from persons who have decided to marry a citizen from another participating State";

Whereas the Helsinki accords also express the commitment of the participating States to "facilitate wider travel by their citizens for personal or professional reasons";

Whereas the Helsinki accords also express the commitment of the participating States to "facilitate the freer and wider dissemination of information of all kinds, to encourage cooperation in the field of information and the exchange of information with other countries";

Whereas the Governments of the Union of Soviet Socialist Republics, Bulgaria, Czechoslovakia, the German Democratic Republic, Hungary, Poland, and Romania, in agreeing to the Helsinki accords, have made a commitment to adhere to the principles of human rights and fundamental freedoms as embodied in the Helsinki accords;

Whereas, despite some limited improvements, the aforementioned Governments have failed to implement their obligations under Principle VII of the Helsinki accords to respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief;

Whereas, despite some limited improvements, the aforementioned Governments have failed to implement their obligations under Basket III of the Helsinki accords to promote free movement of people, ideas and information;

Whereas representatives from the signatory States are convened in Vienna to review implementation and address issues of compliance with the human rights and humanitarian provisions of the Helsinki accords: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) August 1, 1988, the thirteenth anniversary of the signing of the Helsinki accords ~~is~~ designated as "Helsinki Human Rights Day";

(2) the President is authorized and requested to issue a proclamation reasserting the American commitment to full implementation of the human rights and humanitarian provisions of the Helsinki accords, urging all signatory nations to abide by their obligations under the Helsinki accords, and encouraging the people of the United States to join the President and Congress in observance of the Helsinki Human Rights Day with appropriate programs, ceremonies, and activities;

(3) the President is further requested to continue his efforts to achieve full implementation of the human rights and humanitarian provisions of the Helsinki accords by raising, with the Governments of the Soviet Union, Bulgaria, Czechoslovakia, the German Democratic Republic, Hungary, Poland, and Romania, the issue of their noncompliance at every available opportunity;

(4) the President is further requested to convey to all signatories of the Helsinki accords that respect for human rights and fundamental freedoms is a vital element of further progress in the ongoing Helsinki process;

(5) the President is authorized to convey to allies and friends of the United States that unity on the question of respect for human rights and fundamental freedoms is an essential means of promoting the full implementation of the human rights and humanitarian provisions of the Helsinki accords;

(6) the President is requested to continue his efforts to achieve before the end of the Vienna meeting the release of all political prisoners of the Soviet Union, including Helsinki mon-

itors, a significant increase in Soviet emigration, the resolution of all family reunification cases, the cessation of all radio transmission jamming, and the repeal of laws, procedures, and practices which undermine human rights;

(7) the President is further requested to seek the inclusion, in any concluding document agreed to in Vienna, of a mechanism to assure that human rights progress is sustained following the conclusion of the Vienna meeting; and

(8) the President is further requested to convey to signatory States the insistence of the United States for a balanced result at the Vienna meeting that will not favor military security at the expense of human rights.

SEC. 2. The Secretary of the Senate is directed to transmit copies of this joint resolution to the President, the Secretary of State, and the Ambassadors of the thirty-four Helsinki signatory nations.

F. ARMS CONTROL AND DISARMAMENT

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1. Arms Control and Disarmament Act, as amended

Public Law 87-297 [H.R. 9118], 75 Stat. 631, approved September 26, 1961, as amended by Public Law 88-186 [S. 777], 77 Stat. 341, approved November 26, 1963; Public Law 88-426 [H.R. 11049], 78 Stat. 400, approved August 14, 1964; Public Law 88-448 [H.R. 7381], 78 Stat. 484, approved August 19, 1964; Public Law 89-27 [H.R. 2998], 79 Stat. 118, approved May 27, 1965; Public Law 90-314 [H.R. 14940], 82 Stat. 129, approved May 23, 1968; Public Law 91-246 [S. 3544], 84 Stat. 270, approved May 12, 1970; Public Law 92-352 [H.R. 14734], 86 Stat. 489, approved July 13, 1972; Public Law 93-332 [H.R. 12799], 88 Stat. 289, approved July 8, 1974; Public Law 94-141 [S. 1517], 89 Stat. 756, approved November 29, 1975; Public Law 95-108 [H.R. 6179], 91 Stat. 871, approved August 17, 1977; Public Law 95-338 [H.R. 11832], 92 Stat. 458, approved August 8, 1978; Public Law 96-66 [H.R. 2774], 93 Stat. 414, approved September 21, 1979; Public Law 96-465 [H.R. 6790], 94 Stat. 2071 at 2159, approved October 17, 1980; Public Law 97-339 [H.R. 3467], 96 Stat. 1635, approved October 15, 1982; Public Law 98-202 [H.R. 2906], 97 Stat. 1381, approved December 2, 1983; Public Law 99-93 [H.R. 2068], 99 Stat. 405, approved August 16, 1985; Public Law 99-550 [H.R. 3641], 100 Stat. 3067, approved October 27, 1986; and by Public Law 100-213 [H.R. 2689], 101 Stat. 1444, approved December 24, 1987

AN ACT To establish a United States Arms Control and Disarmament Agency.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—SHORT TITLE, PURPOSE, AND DEFINITIONS

SHORT TITLE

Section 1.[1] This Act may be cited as the "Arms Control and Disarmament Act".

PURPOSE

Sec. 2.[2] An ultimate goal of the United States is a world which is free from the scourge of war and the dangers and burdens of armaments; in which the use of force has been subordinated to the rule of law; and in which international adjustments to a changing world are achieved peacefully.[3] It is the purpose of this Act to provide

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[1] 22 U.S.C. 2551 note.

[2] 22 U.S.C. 2551.

[3] This goal is reaffirmed in sec. 1 of the Arms Export Control Act (22 U.S.C. 2751), which adds: "In furtherance of that goal, it remains the policy of the United States to encourage regional arms control and disarmament agreements and to discourage arms races." That section further expresses the sense of the Congress that foreign military sales be approved "only when they are consistent with the foreign policy interests of the United States * * * with particular regard being given, where appropriate * * * to the impact of the sales on * * * existing or incipient arms races."

Sec. 150 of Public Law 94-141 amended the laws relating to international arms transfers to require that decisions on such transfers be made in coordination with the Director of the United States Arms Control and Disarmament Agency and take into account his opinion as to whether the proposed action will contribute to an arms race, or increase the possibility of outbreak or escalation of conflict, or prejudice the development of bilateral or multilateral arms control arrangements. The changes made by sec. 150 of Public Law 94-141 were to add a subsec. (f) to sec.

Continued

impetus toward this goal by creating a new agency of peace to deal with the problem of reduction and control of armaments looking toward ultimate world disarmament.

Arms control and disarmament policy, being an important aspect of foreign policy, must be consistent with national security policy as a whole. The formulation and implementation of United States arms control and disarmament policy in a manner which will promote the national security can best be insured by a central organization charged by statute with primary responsibility for this field. This organization must have such a position within the Government that it can provide the President, the Secretary of State, other officials of the executive branch, and the Congress with recommendations concerning United States arms control and disarmament policy, and can assess the effect of these recommendations upon our foreign policies, our national security policies, and our economy.[4]

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414 of the Mutual Security Act of 1954 (which sec. 212 of the International Security Assistance and Arms Export Control Act of 1976 subsequently repealed and incorporated as subsec. 38(a)(2) of the Arms Export Control Act (22 U.S.C. 2778(a)(2))), and to amend sec. 42(a) of the Foreign Military Sales Act (now sec. 42(a) of the Arms Export Control Act (22 U.S.C. 2791(a))) and sec. 511 of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2321(d)). See also Executive Order 11958 which directs in sec. 1 in subsec. (g) that the Director of the Arms Control and Disarmament Agency, within his area of responsibility, shall assist the Secretary of State in preparation of the annual presentation materials for security assistance programs required to be transmitted to Congress by sec. 25 of the Arms Export Control Act (22 U.S.C. 2765), and in subsec. (j) that with respect to matters related to subpars. (D) and (I) of sec. 36(b)(1) of that Act (22 U.S.C. 2776(b)(1)) the Secretary of Defense shall consult with the Director of the Arms Control and Disarmament Agency, and in sec. 2 that in carrying out the functions delegated to them with respect to arms sales and exports, the Secretaries of State and Defense shall consult with the Director of this Agency on matters pertaining to his responsibilities.

The Director has charged an Assistant Director with primary responsibility for developing policy recommendations and negotiating proposals relating to the control of international transfers of arms and related technology and for assuring that the Agency's views are made known and taken into account concerning arms control factors involved in individual U.S. arms transfers and in policy decisions related to such transfers (22 CFR 601.14).

[4] The Nuclear Non-Proliferation Act of 1978 (Public Law 95-242) amended the Atomic Energy Act of 1954, as amended, (the 1954 act) and created new requirements relating to nuclear export controls. The Arms Control and Disarmament Agency has the following responsibilities under this law:

Sec. 102 (22 U.S.C. 3222) directs the Director of the Agency "to establish and implement procedures which will ensure * * * orderly processing of subsequent arrangements and export licenses with minimum time delay."

Sec. 301(c) amended chapter 10 of the 1954 act by adding a new sec. 111 (42 U.S.C. 2141) in which subsec. (b) requires the Department of Energy to consult with the Agency before making certain government-to-government transfers of special nuclear material or source material.

Sec. 302 amended subsec. 57(b) of the 1954 act (42 U.S.C. 2077(b)) to require the Secretary of Energy to consult with the Agency before making a determination under that subsection that the production of special nuclear material outside of the United States is not inimical to the interest of the United States.

Sec. 303(a) amended chapter 11 of the 1954 act by adding sec. 131 (42 U.S.C. 2160) in which par. (1) of subsec. (a) requires the Secretary of Energy to consult with the Director of the Agency prior to entering into proposed subsequent arrangements under agreements for cooperation. Par. 2 of subsec. (a) provides that: "If in the Director's view a proposed subsequent arrangement might significantly contribute to proliferation, he may prepare an unclassified Nuclear Proliferation Assessment Statement * * * regarding the adequacy of the safeguards and other control mechanisms and the application of peaceful use assurances of the relevant agreement to ensure that assistance to be furnished pursuant to the subsequent arrangement will not be used to further any military or nuclear explosive purpose." Subsec. (c) requires the Secretary of Energy to establish implementing procedures which are agreeable to the Director and which require the Director to specify if he intends to prepare a Nuclear Proliferation Assessment Statement. If the Director declares that he intends to prepare a statement, subsec. (c) and par. (1) of subsec. (a) impose restrictions on actions by the Secretary of Energy to enter into the proposed subsequent arrangement. Sec. 402(a) (42 U.S.C. 2153a(a)) provides that source or special nuclear material exported from the United States may not be enriched without prior approval under procedures identical to those for proposed subsequent arrangements under sec. 131.

Continued

This organization must have the capacity to provide the essential scientific, economic, political, military, psychological, and technological information upon which realistic arms control and disarmament policy must be based. It shall have the authority, under the direction of the President and the Secretary of State,[5] to carry out the following primary functions:

(a) The conduct, support, and coordination of research for arms control and disarmament policy formulation;

(b) The preparation for and management of United States participation in international negotiations in the arms control and disarmament field;

(c) The dissemination and coordination of public information concerning arms control and disarmament; and

(d) The preparation for, operation of, or as appropriate, direction of United States participation in such control systems as may become part of United States arms control and disarmament activities.

DEFINITIONS

Sec. 3.[6] As used in this Act—

Sec. 304(a) amended chapter 11 of the 1954 act by adding a new sec. 126 (42 U.S.C. 2155) in which par. (1) of subsec. (a) requires the Secretary of State to consult with the Director of the Agency before notifying the Nuclear Regulatory Commission that it is the judgment of the executive branch that a proposed export license or exemption for "any production or utilization facility or any source material or special nuclear material" will not be inimical to the common defense and security.

Sec. 304(d) (42 U.S.C. 2156a) requires the Nuclear Regulatory Commission to consult with the Director of the Agency in promulgating physical security regulations for exported nuclear materials.

Sec. 309(a) amended sec. 109 of the 1954 act (42 U.S.C. 2139) to require in subsec. (a) that the Nuclear Regulatory Commission consult with the Director before determining which component parts of reactors, production facilities, or other items "are especially relevant from the standpoint of export control because of their significance for nuclear explosive purposes." Sec. 309(b) and sec. 309(c) require that implementing regulations of the Nuclear Regulatory Commission, and procedures regarding control by the Department of Commerce over export items which could be of significance for nuclear explosive purposes, shall provide for prior consultations with the Agency.

Sec. 401 amended subsec. 123(a) of the 1954 act (42 U.S.C. 2153(a)) to require, with certain exceptions, that "any proposed agreements for cooperation be negotiated by the Secretary of State * * * in consultation with the Director of the Arms Control and Disarmament Agency". As further amended by sec. 301(a)(1) of Public Law 99–64, subsec. 123(a) of the 1954 act provides that when such agreements are submitted to the President they shall be accompanied by the views and recommendations of the Director "who shall also provide to the President an unclassified Nuclear Proliferation Assessment Statement (A) which shall analyze the consistency of the text of the proposed agreement for cooperation with all the requirements of this Act, with specific attention to whether the proposed agreement is consistent with each of the criteria set forth in this subsection, and (B) regarding the adequacy of the safeguards and other control mechanisms and the peaceful use assurances contained in the agreement for cooperation to ensure that any assistance furnished thereunder will not be used to further any military or nuclear explosive purpose."

Sec. 401 also amended subsec. 123(d) of the 1954 act (42 U.S.C. 2153(d)) to provide that the 60-day period for congressional action on agreements for cooperation submitted to Congress under that subsection does not begin until the Nuclear Proliferation Assessment Statement required by subsec. 123(a) to be prepared by the Director of the Arms Control and Disarmament Agency has been submitted to Congress and added an unlettered paragraph following subsec. 123(d) relating to submission of Agency views to Congressional committees.

Sec. 602(c) directs the Agency to keep specified congressional committees currently informed on its activities to carry out the Act and otherwise prevent proliferation, and on the activities of foreign nations of significance from the proliferation standpoint.

Sec. 602(e) directs the Agency to cooperate with the Comptroller General in the conduct of a study for a report to Congress by Mar. 10, 1981 on the implementation and impact of the Act.

[5] Sec. 144 of Public Law 94–141 struck out "It must be able" and inserted "It shall have the authority, under the direction of the President and the Secretary of State,".

[6] 22 U.S.C. 2552.

(a) The terms "arms control" and "disarmament" mean the identification, verification, inspection, limitation, control, reduction, or elimination, of armed forces and armaments of all kinds under international agreement including the necessary steps taken under such an agreement to establish an effective system of international control, or to create and strengthen international organizations for the maintenance of peace.

(b) The term "Government agency" means any executive department, commission, agency, independent establishment, corporation wholly or partly owned by the United States which is an instrumentality of the United States, or any board, bureau, division, service, office, officer, authority, administration, or other establishment in the executive branch of Government.

(c) The term "Agency" means the United States Arms Control and Disarmament Agency.

TITLE II—ORGANIZATION

UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY

Sec. 21.[7] There is hereby established an agency to be known as the "United States Arms Control and Disarmament Agency".

DIRECTOR

Sec. 22.[8] The Agency shall be headed by a Director, who shall serve as the principal adviser to the Secretary of State, the National Security Council,[9] and the President on arms control and disarmament matters. In carrying out his duties under this Act the Director shall, under the direction of the Secretary of State, have primary responsibility within the Government for arms control and disarmament matters, as defined in this Act. The Director shall attend all meetings of the National Security Council involving weapons procurement, arms sales, consideration of the defense budget, and all arms control and disarmament matters.[10] The Director shall be appointed by the President, by and with the advice and consent of the Senate. No person serving on active duty as a commissioned officer of the Armed Forces of the United States may be appointed Director.[11]

DEPUTY DIRECTOR

Sec. 23.[12] A Deputy Director of the Agency shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy Director shall perform such duties and exercise such powers as the Director may prescribe. He shall act for, and exercise the powers of, the Director during his absence or disability or during a vacancy in said office. No person serving on active duty as a commissioned officer of the Armed Forces of the United States may be appointed Deputy Director.[13]

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[7] 22 U.S.C. 2561.

[8] 22 U.S.C. 2562.

[9] Sec. 145 of Public Law 94-141 inserted ", the National Security Council," after "Secretary of State".

[10] Sec. 2 of Public Law 98-202 added this sentence and substituted "The Director" in lieu of "He" in the next sentence.

[11] Par. (a) of sec. 1 of Public Law 96-66 added the last sentence to this section. Sec. 305(17)(A) of Public Law 88-426 repealed a sentence fixing the compensation of the Director, and sec. 303(b)(13) of that Act established such compensation at level II of the Executive Schedule (5 U.S.C. 5313), the rate for which was subsequently set at $89,500 per annum. See Schedule 5 of Executive Order 12663 (54 F.R. 791, January 10, 1989).

[12] 22 U.S.C. 2563.

ASSISTANT DIRECTORS

Sec. 24.[14] Not to exceed four Assistant Directors may be appointed by the President, by and with the advice and consent of the Senate.[15] They shall perform such duties and exercise such powers as the Director may prescribe.

BUREAUS, OFFICES, AND DIVISIONS

Sec. 25.[16] The Director, under the direction of the Secretary of State, may establish within the Agency such bureaus, offices, and divisions as he may determine to be necessary to discharge his responsibilities under this Act, including, but not limited to, an Office of the General Counsel.

GENERAL ADVISORY COMMITTEE

Sec. 26.[17] The President, by and with the advice and consent of the Senate, may appoint a General Advisory Committee of not to exceed fifteen members to advise the Director on arms control and disarmament policy and activities. The President shall designate one of the members as Chairman. The members of the committee may receive the compensation and reimbursement for expenses specified for consultants by section 41(d) of this Act. The Committee shall meet at least twice each year. It shall from time to time advise the President, the Secretary of State, and the Disarmament Director respecting matters affecting arms control, disarmament, and world peace.[18]

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[13] Par. (b) of sec. 1 of Public Law 96-66 added the last sentence to this section. Sec. 305(17)(B) of Public Law 88-426 repealed a sentence fixing the compensation of the Deputy Director, and sec. 303(d)(35) of that Act established such compensation at level IV of the Executive Schedule. Sec. 704(a) (1) and (2)(A) of Public Law 99-93 amended 5 U.S.C. 5314 and 5315 by increasing the compensation level of the Deputy Director from level IV of the Executive Schedule to level III, the rate for which was subsequently set at $82,500 per annum. See Schedule 5 of Executive Order 12663 (54 F.R. 791, January 10, 1989).

[14] 22 U.S.C. 2564.

[15] Sec. 305(17)(C) of Public Law 88-426 repealed a sentence fixing the compensation of Assistant Directors, and sec. 303(e)(75) of that Act established such compensation at level V of the Executive Schedule. Compensation of the General Counsel was established at level V of the Executive Schedule by sec. 303(e)(85) of that Act. Sec. 704(a)(2)(B) and sec. 704(a)(3) of Public Law 99-93 amended 5 U.S.C. 5315 and 5316 by increasing the compensation level for Assistant Directors from level V of the Executive Schedule to level IV, the rate for which was subsequently set at $80,700 per annum. See Schedule 5 of Executive Order 12663 (54 F.R. 791, January 10, 1989). The position of General Counsel has been designated as a general position in the Senior Executive Service (45 F.R. 3849).

[16] 22 U.S.C. 2565.

[17] 22 U.S.C. 2566.

[18] Sec. 14(a)(1) of the Federal Advisory Committee Act (5 U.S.C. Appendix I) provides that each advisory committee established by the President which was in existence on Jan. 5, 1973, would terminate not later than midnight Jan. 5, 1975, unless renewed by the President prior to that time. Notice of renewal of the General Advisory Committee effective Jan. 5, 1975, was published in 40 F.R. 4183. Subsequent notices of renewal of the Committee effective Jan. 5, were published in 42 F.R. 1096 (1977), 44 F.R. 2054 (1979), 46 F.R. 6031 (1981), 48 F.R. 1333 (1983), 50 F.R. 1903 (1985), and 52 F.R. 7465 (1987). A further notice of renewal of the Committee effective Jan. 5, 1989, was published in 54 F.R. 1402, Jan. 13, 1989. Pursuant to sec. 14(c) of the Federal Advisory Committee Act, such renewal continues only to Jan. 5, 1991, unless renewed for a successive 2-year period at that time.

SPECIAL REPRESENTATIVE

Sec. 27.[19] The President may appoint, by and with the advice and consent of the Senate, two Special Representatives [20] for Arms Control and Disarmament Negotiations who shall perform such duties and exercise such powers (under the direction of the President and the Secretary of State, acting through the Director) as the Director may prescribe with respect to international arms control and disarmament negotiations and matters relating thereto.

PROGRAM FOR VISITING SCHOLARS

Sec. 28.[21] A program for visiting scholars in the field of arms control and disarmament shall be established by the Director in order to obtain the services of scholars from the faculties of recognized institutes of higher learning. The purpose of the program will be to give specialists in the physical sciences and other disciplines relevant to the Agency's activities an opportunity for active participation in the arms control and disarmament activities of the Agency and to gain for the Agency the perspective and expertise such persons can offer. Each fellow in the program shall be appointed for a term of one year, except that such term may be extended for a 1-year period. Fellows shall be chosen by a board consisting of the Director, who shall be the chairperson, and all former Directors of the Agency.

TITLE III—FUNCTIONS

RESEARCH

Sec. 31.[22] The Director is authorized and directed to exercise his powers in such manner as to insure the acquisition of a fund of theoretical and practical knowledge concerning disarmament. To this end, the Director is authorized and directed, under the direction of the President, (1) to insure the conduct of research, development, and other studies in the field of arms control and disarmament; (2) to make arrangements (including contracts, agreements, and grants) for the conduct of research, development, and other studies in the field of arms control and disarmament by [23] private or public institutions or persons; and (3) to coordinate the research, development, and other studies conducted in the field of arms control and disarmament by or for other Government agencies in accordance with procedures established under section 35 of this Act. In carrying out his responsibilities under this Act, the Director shall, to the maximum extent feasible, make full use of available facilities, Government and private. The authority of the Director with respect to research, development, and other studies shall be limited to participation in the following insofar as they relate to arms control and disarmament:

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[19] 22 U.S.C. 2567. This section was added by sec. 2(a) of Public Law 95-108. Sec. 2(b) of that Act amended 5 U.S.C. 5315 by adding a new par. (50) to establish the compensation for the Special Representative for Arms Control and Disarmament Negotiations at level IV of the Executive Schedule, the rate for which was subsequently set at $80,700 per annum. See Schedule 5 of Executive Order 12663 (54 F.R. 791, January 10, 1989).

[20] Sec. 6(a) of Public Law 98-202 increased the number of Special Representatives from one to two, and sec. 6(b) of that Act amended 5 U.S.C. 5315 to add the new position to level IV of the Executive Schedule.

[21] 22 U.S.C. 2568. Sec. 3 of Public Law 98-202 added this section.

[22] 22 U.S.C. 2571.

[23] Sec. 5 of Public Law 88-186 inserted the words "United States" between the words "by" and "private". Sec. 3 of Public Law 95-108 subsequently struck out the words "United States".

(a) the detection, identification, inspection, monitoring, limitation, reduction, control, and elimination of armed forces and armaments, including thermonuclear, nuclear, missile, conventional, bacteriological, chemical, and radiological weapons;

(b) the techniques and systems of detecting, identifying, inspecting, and monitoring of tests of nuclear, thermonuclear, and other weapons;

(c) the analysis of national budgets, levels of industrial production, and economic indicators to determine the amounts spent by various countries for armaments and of all aspects of antisatellite activities; [24]

(d) the control, reduction, and elimination of armed forces and armaments in space, in areas on and beneath the earth's surface, and in underwater regions;

(e) the structure and operation of international control and other organizations useful for arms control and disarmament;

(f) the training of scientists, technicians, and other personnel for manning the control systems which may be created by international arms control and disarmament agreements;

(g) the reduction and elimination of the danger of war resulting from accident, miscalculation, or possible surprise attack, including (but not limited to) improvements in the methods of communications between nations;

(h) the economic and political consequences of arms control and disarmament, including the problems of readjustment arising in industry and the reallocation of national resources; [25]

(i) the arms control and disarmament implications of foreign and national security policies of the United States with a view to a better understanding of the significance of such policies for the achievement of arms control and disarmament;

(j) the national security and foreign policy implications of arms control and disarmament proposals with a view to a better understanding of the effect of such proposals upon national security and foreign policy;

(k) methods for the maintenance of peace and security during different stages of arms control and disarmament;

(l) the scientific, economic, political, legal, social, psychological, military, and technological factors related to the prevention of war with a view to a better understanding of how the basic structure of a lasting peace may be established;

(m) such related problems as the Director may determine to be in need of research, development, or study in order to carry out the provisions of this Act.

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[24] Sec. 4 of Public Law 97-339 inserted the words "and of all aspects of antisatellite activities".

[25] For legislation authorizing financial assistance to small business concerns "directly and seriously affected by the significant reduction of the scope or amount of Federal support for any project as a result of any international agreement limiting the development of strategic arms or the installation of strategic arms or strategic arms facilities," see sec. 7(b) of the Small Business Act, as amended by Public Law 92-385 (15 U.S.C. 636(b)(6)).

PATENTS

Sec. 32.[26] All research within the United States contracted for, sponsored, cosponsored, or authorized under authority of this Act, shall be provided for in such manner that all information as to uses, products, processes, patents, and other developments resulting from such research developed by Government expenditure will (with such exceptions and limitations, if any, as the Director may find to be necessary in the public interest) be available to the general public. This subsection shall not be so construed as to deprive the owner of any background patent relating thereto of such rights as he may have thereunder.

POLICY FORMULATION

Sec. 33.[27] The Director is authorized and directed to prepare for the President, the Secretary of State, and the heads of such other Government agencies, as the President may determine, recommendations concerning United States arms control and disarmament policy: *Provided, however,* That no action shall be taken under this or any other law that will obligate the United States to disarm or to reduce or to limit the Armed Forces or armaments of the United States, except pursuant to the treaty-making power of the President under the Constitution or unless authorized by further affirmative legislation by the Congress of the United States. Nothing contained in this Act shall be construed to authorize any policy or action by any Government agency which would interfere with, restrict, or prohibit the acquisition, possession, or use of firearms by an individual for the lawful purpose of personal defense, sport, recreation, education, or training.[28]

NEGOTIATIONS AND RELATED FUNCTIONS

Sec. 34.[29] Under the direction of the Secretary of State—

(a) the Director, for the purpose of conducting negotiations concerning arms control and disarmament or for the purpose of exercising any other authority given him by this Act, may (1) consult and communicate with or direct the consultation and communication with representatives of other nations or of international organizations and (2) communicate in the name of the Secretary with diplomatic representatives of the United States in this country and abroad.[30]

(b) the Director shall perform functions pursuant to section 2(c) of the Reorganization Plan 8 of 1953 [31] with respect to providing to the United States Information Agency [32] official United States positions and policy on arms control and disarmament matters for dissemination abroad.

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[26] 22 U.S.C. 2572. Sec. 6 of Public Law 96–517 added a new chapter 38 to title 35 of the United States Code which takes precedent over other acts governing the rights in inventions made by small business firms and nonprofit organizations under funding agreements with Federal agencies for the performance of experimental, developmental, or research work.

[27] 22 U.S.C. 2573.

[28] Sec. 3 of Public Law 88–186 added the last sentence to this section.

[29] 22 U.S.C. 2574.

[30] For additional statutory requirements relating to persons representing the United States "in such organs, commissions or other bodies as may be created by the United Nations with respect to nuclear energy or disarmament (control and limitation of armament)", see sec. 2(b) of the United Nations Participation Act of 1945, as amended (22 U.S.C. 287(b)), page 959.

[31] 22 U.S.C. 1461 (note). For text, see vol. V, sec. E.

(c) the Director is authorized (1) to formulate plans and make preparations for the establishment, operation, and funding of inspection and control systems which may become part of the United States arms control and disarmament activities, and (2) as authorized by law, to put into effect, direct, or otherwise assume United States responsibility for such systems.

COORDINATION

Sec. 35.[33] The President is authorized to establish procedures to (1) assure cooperation, consultation, and a continuing exchange of information between the Agency and the Department of Defense, the Atomic Energy Commission,[34] the National Aeronautics and Space Administration, and other affected Government agencies, in all significant aspects of United States arms control and disarmament policy and related matters, including current and prospective policies, plans, and programs, (2) resolve differences of opinion between the Director and such other agencies which cannot be resolved through consultation, and (3) provide for presentation to the President of recommendations of the Director with respect to such differences, when such differences involve major matters of policy and cannot be resolved through consultation.

ARMS CONTROL IMPACT INFORMATION AND ANALYSIS

Sec. 36.[35] (a) In order to assist the Director in the performance of his duties with respect to arms control and disarmament policy and negotiations, any Government agency preparing any legislative or budgetary proposal for—

(1) any program of research, development, testing, engineering, construction, deployment, or modernization with respect to nuclear armaments, nuclear implements of war, military facilities or military vehicles designed or intended primarily for the delivery of nuclear weapons,

(2) any program of research, development, testing, engineering, construction, deployment, or modernization with respect to armaments, ammunition, implements of war, or military facilities, having—

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[32] The United States Information Agency was abolished by Executive Order 12048, effective Apr. 1, 1978 (43 F.R. 13361) which implemented Reorganization Plan No. 2 of 1977 (42 F.R. 62461) and its functions were transferred to the International Communication Agency established by the Reorganization Plan and Executive Order. Sec. 303 of Public Law 97-241 changed the name of the International Communication Agency back to its original name of the United States Information Agency.

[33] 22 U.S.C. 2575. See also Executive Order 11044 (27 F.R. 8341), sec. 2 of Executive Order 12361 (47 F.R. 18313), and the Procedure for Developing Arms Control Impact Statements disseminated by the Deputy Assistant to the Assistant to the President for National Security Affairs by memorandum dated July 24, 1978.

[34] The Atomic Energy Commission was abolished by the Energy Reorganization Act of 1974 (42 U.S.C. 5801 et seq.), and its functions transferred to the Energy Research and Development Administration and the Nuclear Regulatory Commission established by that Act. The Energy Research and Development Administration was terminated by the Department of Energy Organization Act (42 U.S.C. 7101 et seq.) and its functions transferred to the Department of Energy established by that Act.

[35] 22 U.S.C. 2576. This section was added by sec. 146 of Public Law 94-141.

(A) an estimated total program cost in excess of $250,000,000, or

(B) an estimated annual program cost in excess of $50,000,000, or

(3) any other program involving technology with potential military application or weapons systems[36] which such Government agency or the Director believes may have a significant impact on arms control and disarmament policy or negotiations,

shall, on a continuing basis, provide the Director with full and timely access to detailed information, in accordance with the procedures established pursuant to section 35 of this Act, with respect to the nature, scope, and purpose of such proposal.

(b)(1) The Director, as he deems appropriate, shall assess and analyze each program described in subsection (a) with respect to its impact on arms control and disarmament policy and negotiations, and shall advise and make recommendations, on the basis of such assessment and analysis, to the National Security Council, the Office of Management and Budget, and the Government agency proposing such program.

(2)[37] No request to the Congress for authorization or appropriations for—

(A) any program described in subsection (a) (1) or (2), or

(B) any program described in subsection (a)(3) and found by the National Security Council, on the basis of the advice and recommendations received from the Director, to have a significant impact on arms control and disarmament policy or negotiations,

shall be transmitted without a complete statement analyzing the impact of such program, either as an individual program or as an aggregation of related programs, on arms control and disarmament policy and negotiations. Any such statement transmitted in classified form shall be accompanied by an unclassified version thereof.

(3) Upon the request of the Committee on Armed Services of the Senate or the House of Representatives, the Committee on Appropriations of the Senate or the House of Representatives, the Committee on Foreign Relations of the Senate, or the Committee on International Relations of the House of Representatives or the Joint Committee on Atomic Energy, the Director shall, after informing the Secretary of State, advise such committee on the arms control and disarmament implications of any program with respect

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[36] Sec. 1(1) of Public Law 95–338 struck out the words "weapons systems or technology" and inserted "technology with potential military application or weapons systems". Senate Report No. 95–843, May 15, 1978, states at page 3 that this change was made "so that there would be no question that technology with potential military application, rather than, simply, weapons technology, could be reviewed and reported upon under the legislation."

[37] Sec. 1(2) of Public Law 95–338 amended and restated subsec. (b)(2) which previously read as follows:

"(2) Any request to the Congress for authorization or appropriations for—

"(A) any program described in subsection (a)(1) or (2), or

"(B) any program described in subsection (a)(3) and found by the National Security Council, on the basis of the advice and recommendations received from the Director, to have a significant impact on arms control and disarmament policy or negotiations,

shall include a complete statement analyzing the impact of such program on arms control and disarmament policy and negotiations."

to which a statement has been submitted to the Congress pursuant to paragraph (2).

(c) No court shall have any jurisdiction under any law to compel the performance of any requirement of this section or to review the adequacy of the performance of any such requirement on the part of any Government agency (including the Agency and the Director).

VERIFICATION OF ARMS CONTROL AGREEMENTS

Sec. 37.[38] (a) It is the sense of the Congress that adequate verification of compliance should be an indispensable part of any international arms control agreement. In recognition of such policy and in order to assure that arms control proposals made or accepted by the United States can be adequately verified, the Director shall report to the Congress, on a timely basis, or upon a request by an appropriate committee of the Congress—

(1) in the case of each element of any significant arms control proposal made to a foreign country by the United States, or made to the United States by a foreign country, the determination of the Director as to the degree to which such element can be verified by existing national technical means;

(2) in the case of any arms control agreement or treaty that has entered into force, any significant degradation or alteration in the capacity of the United States to verify the various components of such agreement or treaty;

(3) the number of professional personnel assigned to arms control verification on a full-time basis by each Government agency; and

(4) the amount and percentage of research funds expended by the Agency for the purpose of analyzing issues relating to arms control verification.

(b) For purposes of paragraphs (1) and (2) of subsection (a), the Director shall assume that all measures of concealment not expressly prohibited could be employed and that standard practices could be altered so as to impede verification.

(c) Except as otherwise provided by law, nothing in this section shall be construed as requiring the disclosure of sensitive information relating to intelligence sources or methods or persons employed in the verification of compliance with arms control agreements.

REPORTS ON STANDING CONSULTATIVE COMMISSION ACTIVITIES

Sec. 38.[39] The President shall submit, not later than January 31 of each year, to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report prepared by the United States Commissioner on the activities of the United States-Union of Soviet Socialist Republics Standing Consultative Commission established under Article XIII of the Treaty on the Limitation of Anti-Ballistic Missile Systems. In preparing this report, the Commissioner should consult with former

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[38] 22 U.S.C. 2577. This section was added by sec. 4 of Public Law 95-108.

[39] 22 U.S.C. 2578. This section was added by sec. 3(b) of Public Law 100-213.

United States Commissioners and other experts. Such annual report shall include detailed information on all substantive issues raised by either party to the Treaty and the response of the other party with regard to such issues. Such annual report shall be transmitted under an injunction of secrecy, but shall be accompanied by an unclassified addendum containing such information with respect to the activities of the Commission as can be made public consistent with the need for confidentiality of Commission proceedings and the national security of the United States.

COMPREHENSIVE COMPILATION OF ARMS CONTROL AND DISARMAMENT STUDIES

Sec. 39.[40] Pursuant to his responsibilities under section 31 of this Act, and in order to enhance Congressional and public understanding of arms control and disarmament issues, the Director shall provide to the Congress not later than June 30 of each year a report setting forth—

(1) a comprehensive list of studies relating to arms control and disarmament issues concluded during the previous calendar year by government agencies or for government agencies by private or public institutions or persons; and

(2) a brief description of each such study.

This report shall be unclassified, with a classified addendum if necessary.

TITLE IV—GENERAL PROVISIONS

GENERAL AUTHORITY

Sec. 41.[41] In the performance of his functions, the Director is authorized to—

(a) utilize or employ the services, personnel, equipment, or facilities of any other Government agency, with the consent of the agency concerned, to perform such functions on behalf of the Agency as may appear desirable. It is the intent of this section that the Director rely upon the Department of State for general administrative services in the United States and abroad to the extent agreed upon between the Secretary of State and the Director. Any Government agency is authorized, notwithstanding any other provision of law, to transfer to or to receive from the Director, without reimbursement, supplies and equipment other than administrative supplies or equipment. Transfer or receipt of excess property shall be in accordance with the provisions of the Federal Property and Administrative Services Act of 1949, as amended; [42]

(b) [43] appoint officers and employees, including attorneys, for the Agency in accordance with the provisions of title 5, United States

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[40] 22 U.S.C. 2579. This section was added by sec. 4 of Public Law 100–213.

[41] 22 U.S.C. 2581.

[42] See e.g., 40 U.S.C. 483(a) and 484.

[43] Sec. 5(a) of Public Law 95–108 amended and restated subsec. (b) which formerly read as follows: "(b) appoint officers and employees, including attorneys, for the Agency in accordance with the civil service laws and fix their compensation in accordance with the Classification Act of 1949, as amended;". The date of enactment referred to in the amended subsection is Aug. 17, 1977.

Code, governing appointment in the competitive service, and fix their compensation in accordance with chapter 51 and with subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates,[44] except that during the 2-year period beginning on the date of enactment of the Arms Control and Disarmament Act Amendments of 1977, the Director may, to the extent he deems necessary to the discharge of his responsibilities, appoint and fix the compensation of officers and employees for the Agency without regard to such provisions, subject to the following requirements:

(1) an officer or employee whose compensation is fixed under the foregoing exception may not be paid a salary at a rate in excess of the rate payable under such chapter 51 and such subchapter III for positions of equivalent difficulty or responsibility except for (A) those officers and employees whose compensation is fixed by law, and (B) scientific and technical personnel who may be compensated at a rate not to exceed the rate in effect for grade GS-18 of the General Schedule;

(2) the Director shall make adequate provision for administrative review of any determination to suspend or dismiss any officer or employee appointed under the foregoing exception; and

(3) an officer or employee of the Agency serving under a career or career conditional appointment on the date of enactment of the Arms Control and Disarmament Act Amendments of 1977 may not be involuntarily deprived, while employed by the Agency, of any rights normally granted such officer or employee in the competitive service;

(c) enter into agreements with other Government agencies, including the military departments through the Secretary of Defense, under which officers or employees of such agencies may be detailed to the Agency for the performance of service pursuant to this Act without prejudice to the status or advancement of such officers or employees within their own agencies;

(d) procure services of experts and consultants or organizations thereof, including stenographic reporting services, as authorized by section 3109 of title 5 of the United States Code,[45] and to pay in connection therewith travel expenses of individuals, including transportation and per diem in lieu of subsistence while away from their homes or regular places of business, as authorized by section 5703 of such title: [46] *Provided,* That no such individual shall be employed for more than 130 days[47] in any fiscal year unless the President certifies that employment of such individual in excess of such number of days is necessary in the national interest: *And provided further,* That such contracts may be renewed annually;

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[44] Rates of basic pay under the General Schedule are set forth in Schedule 1 of Executive Order 12663 (54 F.R. 791, January 10, 1989). Prior to the amendment of 5 U.S.C. 3104(a) by sec. 414(a)(2)(B) of the Civil Service Reform Act of 1978 (Public Law 95-454), the Director was authorized to establish not more than 14 scientific or professional positions to carry out the research and development functions of the Agency which require the services of special qualified personnel. The authority to establish such positions is now vested in the Director of the Office of Personnel Management with rates of basic pay fixed as provided in 5 U.S.C. 5371. The rate of basic pay of the Public Affairs Adviser is covered by 5 U.S.C. 5374. That position has been designated as a general position in the Senior Executive Service (45 F.R. 3849). Rates of basic pay for the Senior Executive Service as set pursuant to 5 U.S.C. 5382 are set forth in Schedule 4 of Executive Order 12663 (54 F.R. 791, January 10, 1989).

[45] Par. (a)(1) of Public Law 93-332 struck out the words "at rates not exceeding $100 per diem for individuals" previously found here and also substituted the reference to "section 3109 of title 5 of the United States Code" for an obsolete reference to "section 15 of the Act of August 2, 1946 (5 U.S.C. 55a)".

[46] Par. (a)(2) of Public Law 93-332 substituted the reference to "section 5703 of such title" for an obsolete reference to "section 5 of said Act, as amended (5 U.S.C. 73b-2)".

(e) employ individuals of outstanding ability without compensation in accordance with the provisions of section 710(b) of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2160), and regulations issued thereunder;

(f) establish advisory boards to advise with and make recommendations to the Director on United States arms control and disarmament policy and activities. The members of such boards may receive the compensation and reimbursement for expenses specified for consultants by section 41(d) of this Act;[48]

(g)[49] permit, under such terms and conditions as he may prescribe, any officer or employee of the Agency, in connection with the attendance by such officer or employee at meetings or in performing advisory services concerned with the functions or activities of the Agency, to accept payment, in cash or in kind, from any private agency or organization, or from any individual affiliated with such agency or organization, for travel and subsistence expenses, such payment to be retained by such officer or employee to cover the cost thereof or to be deposited to the credit of the appropriation from which the cost thereof is paid;

(h)[49] delegate, as appropriate, to the Deputy Director or other officers of the Agency, any authority conferred upon the Director by the provisions of this Act; and

(i)[49] make, promulgate, issue, rescind, and amend such rules and regulations as may be necessary or desirable to the exercise of any authority conferred upon the Director by the provisions of this Act.

FOREIGN SERVICE PERSONNEL

Sec. 42. (a)[50] The Secretary of State may authorize the Director to exercise, with respect to members of the Foreign Service appointed or employed for the Agency—

(1) the authority available to the Secretary under the Foreign Service Act of 1980, and

(2) the authority available to the Secretary under any other provisions of law pertaining specifically or applicable generally to members of the Foreign Service.

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[47] Par. (a)(3) of Public Law 93-332 struck out "one hundred days" and substituted "130 days".

[48] For general legislation on advisory boards, see the Federal Advisory Committee Act (5 U.S.C. app. I).

[49] Sec. 5(b) of Public Law 95-108 added this new subsec. "(g)" and redesignated the previous subsecs. "(g)" and "(h)" as "(h)" and "(i)", respectively.

[50] 22 U.S.C. 2582. Sec. 42 was amended and restated by sec. 2204(a) of Public Law 96-465. It formerly read as follows:

"FOREIGN SERVICE RESERVE AND STAFF OFFICERS

"Sec. 42. The Secretary of State may authorize the Director to exercise, with respect to Foreign Service Reserve officers and Foreign Service Staff officers and employees appointed or employed for the Agency, the following authority: (1) The authority available to the Secretary of State under the Foreign Service Act of 1946, as amended, (2) the authority available to the Secretary under any other provision of law pertaining specifically, or generally applicable, to such officers or employees, and (3) the authority of the Board of Foreign Service pursuant to the Foreign Service Act of 1946, as amended."

(b) Limited appointments of members of the Foreign Service for the Agency may be extended or renewed, notwithstanding section 309 of the Foreign Service Act of 1980, so long as the service of the individual under such appointment does not exceed ten consecutive years without a break in service of at least one year.

CONTRACTS OR EXPENDITURES

Sec. 43.[51] The President may, in advance, exempt actions of the Director from the provisions of law relating to contracts or expenditures of Government funds whenever he determines that such action is essential in the interest of United States arms control and disarmament and security policy.

CONFLICT-OF-INTEREST AND DUAL COMPENSATION LAWS

Sec. 44.[52] The members of the General Advisory Committee created by section 26 of this Act, and the members of the advisory boards, the consultants, and the individuals of outstanding ability employed without compensation, all of which are provided in section 41 of this Act, may serve as such without regard to the provisions of section 281, 283, 284, or 1914 of title 18 of the United States Code, or of section 190 of the Revised Statutes (5 U.S.C. 99),[53] or of any other Federal law imposing restrictions, requirements, or penalties in relation to the employment of individuals, the performance of services, or the payment or receipt of compensation in connection with any claim, proceeding, or matter involving the United States Government, except insofar as such provisions of law may prohibit any such individual from receiving compensation from a source other than a nonprofit educational institution in respect of any particular matter in which the Agency is directly interested.[54] Nor shall such service be considered as employment or holding of office or position bringing such individual within the provisions of section 13 of the Civil Service Retirement Act (5 U.S.C. 2263),[55] or any other Federal law limiting the reemployment of retired officers or employees or governing the simultaneous receipt of compensation and retired pay or annuities, subject to section 201 of the Dual Compensation Act.[56]

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[51] 22 U.S.C. 2583.

[52] 22 U.S.C. 2584.

[53] Sec. 2 of Public Law 87-849 repealed secs. 281 and 283 of title 18 of the United States Code, except as they apply to retired officers of the armed forces of the United States, and also repealed secs. 284 and 1914 of that title. It also provided that these repealed sections were respectively supplanted by secs. 203, 205, 207, and 209 of that title set forth in sec. 1 of Public Law 87-849. Sec. 3 of Public Law 87-849 repealed sec. 190 of the Revised Statutes (5 U.S.C. 99).

[54] See sec. 2 of Public Law 87-849 which provided that all statutory exemptions from the provisions of secs. 281, 282, 283, 284, 434, or 1941 (now secs. 203, 204, 205, 207, 208, and 209, respectively) of title 18 of the United States Code which were in force on Jan. 21, 1963, are no longer applicable to officers or employees of the executive branch of the United States Government.

[55] Now 5 U.S.C. 3323(b) and 8344. Sec. 401(d)(1) of Public Law 88-448, the Dual Compensation Act, deleted a reference previously found here to "section 212 of the Act of June 30, 1932, as amended (5 U.S.C. 59a)".

[56] Now codified as 5 U.S.C. 5532. Sec. 401(d)(2) of Public Law 88-448, the Dual Compensation Act, added the last nine words to this section.

SECURITY REQUIREMENTS

Sec. 45.[57] (a) The Director shall establish such security and loyalty requirements, restrictions, and safeguards as he deems necessary in the interest of the national security and to carry out the provisions of this Act. Except as provided in subsection (d),[58] the Director shall arrange with the Civil Service Commission for the conduct of full-field background security and loyalty investigations of all the Agency's officers, employees, consultants, persons detailed from other Government agencies, members of its General Advisory Committee, advisory boards, contractors and subcontractors, and their officers and employees, actual or prospective. In the case of persons detailed from other Government agencies, the Director may accept the results of full-field background security and loyalty investigations conducted by the Department of Defense or the Department of State as the basis for the determination required by this subsection that the person is not a security risk or of doubtful loyalty.[59] In the event the investigation discloses information indicating that the person investigated may be or may become a security risk, or may be of doubtful loyalty, the report of the investigation shall be turned over to the Federal Bureau of Investigation for a full-field investigation. The final results of all such investigations shall be turned over to the Director for final determination. Except as provided in subsection (d),[60] no person shall be permitted to enter on duty as such an officer, employee, consultant, or member of advisory committee or board, or pursuant to any such detail, and no contractor or subcontractor, or officer or employee thereof shall be permitted to have access to any classified information, until he shall have been investigated in accordance with this subsection and the report of such investigations made to the Director, and the Director shall have determined that such person is not a security risk or of doubtful loyalty. Standards applicable with respect to the security clearance of persons within any category referred to in this subsection shall not be less stringent, and the investigation of such persons for such purposes shall not be less intensive or complete, than in the case of such clearance of persons in a corresponding category under the security procedures of the Government agency or agencies having the highest security restrictions with respect to persons in such category.

(b)[61] In the case of contractors or subcontractors and their officers or employees, actual or prospective, the Director may accept, in lieu of the investigation prescribed in subsection (a) hereof, a report of investigation conducted by a Government agency, other than the Civil Service Commission or the Federal Bureau of Investigation, when it is determined by the Director that the completed investigation meets the standards established in subsection (a) hereof: *Provided,* That security clearance had been granted to the individual concerned by another Government agency based upon such investigation and report. The Director may also grant access for information classified no higher than "confidential" to contractors or subcontractors and their officers and employees, actual or prospective, on the basis of reports on less than full-field investigations: *Provided*, That such investigations shall each include a current national agency check. Notwithstanding the foregoing and the provisions of subsection (a), the Director may also grant access to classified information to contractors or subcontractors and their officers and employees, actual or prospective, on the basis of a security clearance granted by the Department of Defense, or any agency thereof, to the individual concerned; except that any access to Restricted Data shall be subject to the provisions of subsection (c).[62]

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[57] 22 U.S.C. 2585.

[58] Sec. 147(a)(1) of Public Law 94-141 added the first six words to this sentence.

[59] Sec. 3 of Public Law 97-339 added this sentence.

[60] Sec. 147(a)(2) of Public Law 94-141 added the first six words to this sentence.

[61] Sec. 2 of Public Law 88-186 added this subsec. "(b)" except for the last sentence, and redesignated the previous subsec. "(b)" as subsec. "(c)".

(c) [61] The Atomic Energy Commission [34] may authorize any of its employees, or employees of any contractor, prospective contractor, licensee, or prospective licensee of the Atomic Energy Commission, or any other person authorized to have access to Restricted Data by the Atomic Energy Commission under section 2165 of title 42, to permit the Director or any officer, employee, consultant, person detailed from other Government agencies, member of the General Advisory Committee or of an advisory board established pursuant to section 41(f), contractor, subcontractor, prospective contractor, or prospective subcontractor, or officer or employee of such contractor, subcontractor, prospective contractor, or prospective subcontractor, to have access to Restricted Data which is required in the performance of his duties and so certified by the Director, but only if (1) the Atomic Energy Commission has determined, in accordance with the established personnel security procedures and standards of the Commission, that permitting such individual to have access to such Restricted Data will not endanger the common defense and security, and (2) the Atomic Energy Commission finds that the established personnel and other security procedures and standards of the Agency are adequate and in reasonable conformity to the standards established by the Atomic Energy Commission under section 2165 of title 42, including those for interim clearance in subsection (b) thereof. Any individual granted access to such Restricted Data pursuant to this subsection may exchange such data with any individual who (A) is an officer or employee of the Department of Defense, or any department or agency thereof, or a member of the Armed Forces, or an officer or employee of the National Aeronautics and Space Administration, or a contractor or subcontractor of any such department, agency, or armed force, or an officer or employee of any such contractor or subcontractor, and (B) has been authorized to have access to Restricted Data under the provisions of sections 2163 or 2455 of title 42.

(d) [63] The investigations and determination required under subsection (a) may be waived by the Director in the case of any consultant who will not be permitted to have access to classified information if the Director determines and certifies in writing that such waiver is in the best interests of the United States.

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[62] Sec. 147(b) of Public Law 94-141 added the last sentence in this subsection.
[63] Sec. 147(a)(3) of Public Law 94-141 added this subsection.

COMPTROLLER GENERAL AUDIT

Sec. 46.[64] No moneys appropriated for the purposes of this Act shall be available for payment under any contract with the Director, negotiated without advertising, except contracts with any foreign government, international organization or any agency thereof, unless such contract includes a clause to the effect that the Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of three years after final payment, have access to and the right to examine any directly pertinent books, documents, papers, and records of the contractor or any of his subcontractors engaged in the performance of, and involving transactions related to such contracts or subcontracts: *Provided, however,* That no moneys so appropriated shall be available for payment under such contract which includes any provisions precluding an audit by the General Accounting Office of any transactions under such contract: *And provided further,* That nothing in this section shall preclude the earlier disposal of contractor and subcontractor records in accordance with records disposal schedules agreed upon between the Director and the General Accounting Office.

TRANSFER OF ACTIVITIES AND FACILITIES TO AGENCY

Sec. 47.[65] (a) The United States Disarmament Administration, together with its records, property, personnel, and funds, is hereby transferred to the Agency. The appropriations and unexpended balances of appropriations transferred pursuant to this subsection shall be available for expenditure for any and all objects of expenditure authorized by this Act, without regard to the requirements of apportionment under section 665 of title 31.

(b) The President, by Executive order, may transfer to the Director any activities or facilities of any Government agency which relate primarily to arms control and disarmament. In connection with any such transfer, the President may under this section or other applicable authority, provide for appropriate transfers of records, property, civilian personnel, and funds. No transfer shall be made under this subsection until (1) a full and complete report concerning the nature and effect of such proposed transfer has been transmitted by the President to the Congress, and (2) the first period of sixty calendar days of regular session of the Congress following the date of receipt of such report by the Congress has expired without adoption by either House of the Congress of a resolution stating that such House does not favor such transfer. The procedures prescribed in title II of the Reorganization Act of 1949 [66] shall apply to any such resolution.

USE OF FUNDS

Sec. 48.[67] Appropriations made to the Director for the purposes of this Act, and transfers of funds to him by other Government agencies for such purposes, shall be available to him to exercise any authority granted him by this Act, including, without limitation, expenses of printing and binding without regard to the provisions of section 11 of the Act of March 1, 1919 (44 U.S.C. 111); [68] purchase or hire of one passenger motor vehicle for the official use of the Director without regard to the limitations contained in section 78(c) of title 5 of the United States Code; [69] entertainment and official courtesies to the extent authorized by appropriation; expenditures for training and study; expenditures in connection with participation in international conferences for the purposes of this Act; and expenses in connection with travel of personnel outside the United States,[70] including transportation expenses of dependents, household goods, and personal effects, and expenses authorized by the Foreign Service Act of 1980,[71] not otherwise provided for.

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[64] 22 U.S.C. 2586.
[65] 22 U.S.C. 2587.
[66] 5 U.S.C. 908-913.
[67] 22 U.S.C. 2588.

APPROPRIATION

Sec. 49.[72] (a)(1) To carry out the purposes of this Act, there are authorized to be appropriated—

(A) $29,000,000 for the fiscal year 1988 [73] and $29,800,000 for fiscal year 1989; [74] and

(B) such additional amounts as may be necessary for each such fiscal year for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs, and to offset adverse fluctuations in foreign currency exchange rates.

(2) Of the amounts authorized to be appropriated by paragraph (1)(A) for each of the fiscal years 1988 and 1989—

(A) $7,063,000 shall be available only to pay necessary expenses incurred in connection with arms control negotiations conducted with the Government of the Soviet Union on strategic arms reductions, intermediate-range nuclear forces, and space and defensive weapons;

(B) not less than $310,000 shall be available only for the program for visiting scholars in the field of arms control and disarmament established under section 28 of this Act;

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[68] Now 44 U.S.C. 501, first sentence.

[69] Sec. 2(c) of Public Law 99-550 struck out the words "without regard to the limitations contained in section 78(c) of title 5 of the United States Code" (now 31 U.S.C. 1343(c), 1344, and 1349) previously found here. The President subsequently designated the Director as an official covered by 31 U.S.C. 1344(b)(1)(C).

[70] Sec. 706 of Public Law 95–426 provides authority, notwithstanding the limitations established by sec. 1117 of the Federal Aviation Act of 1958 (49 U.S.C. 1517), to use funds appropriated after Oct. 7, 1978 to pay for transportation, between two places both of which are outside the United States, of officers and employees, their dependents, and accompanying baggage aboard air carriers which do not hold certificates (i.e., foreign air carriers) under sec. 401 of that Act.

[71] 22 U.S.C. 3901 et seq. This reference to the Foreign Service Act of 1980 was substituted in lieu of a reference to the Foreign Service Act of 1946, as amended, by sec. 2204(b) of Public Law 96–465.

[72] 22 U.S.C. 2589.

[73] Title V of Public Law 100–202 appropriated $30,100,000 for fiscal year 1988, including not to exceed $48,000 for official reception and representation expenses, of which $2,600,000 was to be transferred to the Department of Energy for the Reduced Enrichment in Research and Test Reactor Program. In addition, Public Law 100–393 provided that "funds appropriated to the Department of State in Fiscal Year 1988 may be used to carry out the provisions" of sec. 53 of this Act.

[74] Title V of Public Law 100–459 (102 Stat. 2214) appropriated $31,030,000 for fiscal year 1989, including not to exceed $55,000 for official reception and representation expenses.

(C) $780,000 shall be used for external research to assist the Bureau of Verification and Intelligence in making assessments of possible new systems, devices, and capabilities for verification of arms control;

(D) not more than $1,560,000 may be used for any other external research program; and

(E) a total of not more than $3,000,000 may be used for all external research.

(3) Amounts appropriated under this subsection are authorized to remain available until expended.[75]

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[75] Sec. 2 of Public Law 100-213 amended and restated subsec. (a)(1) and (2). Subsec. (a) had previously been amended and restated by sec. 701 and 702 of Public Law 99-93 to read as follows:

"(a) To carry out the purposes of this Act, there are authorized to be appropriated—

"(1) for the fiscal year 1985, $23,789,000, of which amount $4,321,000 shall be available only to pay necessary expenses incurred in connection with arms control negotiations with the Government of the Soviet Union on strategic arms reductions, intermediate-range nuclear forces, and space and defensive weapons;

"(2) for the fiscal year 1986, $25,614,000, and for the fiscal year 1987, $25,614,000, of which amounts $6,146,000 shall be available in each fiscal year only to pay necessary expenses incurred in connection with arms control negotiations conducted with the Government of the Soviet Union on strategic arms reductions, intermediate-range nuclear forces, and space and defensive weapons; and".

Prior to Public Law 99-93, subsec. (a) had previously been amended by sec. 1 of Public Law 98-202 to read as follows:

"(a) To carry out the purposes of this Act, there are authorized to be appropriated—

"(1) for the fiscal year 1984, $20,888,000;

"(2) for the fiscal year 1985, $21,932,000; and

"(3) such additional amounts as may be necessary, for each such fiscal year, for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs, and to offset adverse fluctuations in foreign currency exchange rates.

"Of the sums authorized to be appropriated for the fiscal years 1984 and 1985, not less than $200,000 shall be available in each such fiscal year only for the program for visiting scholars in the field of arms control and disarmament established under section 28 of this Act. Amounts appropriated under this subsection are authorized to remain available until expended."

Prior to Public Law 98-202, subsec. (a) had been amended by sec. 2 of Public Law 97-339 to read as follows:

"(a) To carry out the purposes of this Act, there are authorized to be appropriated—

"(1) for the fiscal year 1982, $18,268,000,

"(2) for the fiscal year 1983, $19,893,852, and

"(3) such additional amounts, for each such fiscal year, as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs, and to offset adverse fluctuations in foreign currency exchange rates.

"Amounts appropriated under this subsection are authorized to remain available until expended."

Prior to Public Law 97-339, subsec. (a) had been amended by sec. 2 of Public Law 96-66 to read as follows:

"(a) To carry out the purposes of this Act, there are authorized to be appropriated—

"(1) for the fiscal year 1980, $18,876,000, and

"(2) for the fiscal year 1981, $20,645,000,

and such additional amounts, for each such fiscal year, as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs, and to offset adverse fluctuations in foreign currency exchange rates. Amounts appropriated under this subsection are authorized to remain available until expended."

Prior to Public Law 96-66, subsec. (a) had been amended by sec. 2 of Public Law 95-338 to read as follows:

"(a) To carry out the purposes of this Act, there are authorized to be appropriated for fiscal year 1979 the sum of $18,395,000 (and such additional amounts as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs) of which $1,000,000 shall be available only for the purpose of furthering the nuclear safeguards programs and activities of the International Atomic Energy Agency, and of which such sums as may be necessary shall be available to conduct a study of the arms control study centers at academic institutions, and to report the results of such study with possible recommendations to Congress not later than January 31, 1979. The sums authorized to be appropriated by this subsection shall remain available until expended."

Prior to Public Law 95-338, subsec. (a) had been amended by sec. 6 of Public Law 95-108 to read as follows:

"(a) To carry out the purposes of this Act, there are authorized to be appropriated—

"(1) for fiscal years 1976 and 1977, the sum of $23,440,000 (and such additional amounts as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs); and

"(2) for fiscal year 1978, the sum of $16,600,000 (and such additional amounts as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs);

to remain available until expended. Of the sum authorized to be appropriated by this section for the fiscal year 1978, $2,000,000 shall be available only for the purpose of furthering the nuclear safeguards programs and activities of the International Atomic Energy Agency."

Prior to Public Law 95-108 subsec. (a) read as follows:

"(a) There are hereby authorized to be appropriated not to exceed $10,000,000 to remain available until expended, to carry out the purposes of this Act. In addition, there is hereby authorized to be appropriated for the fiscal years 1964 and 1965, the sum of $20,000,000, and for the three fiscal years 1966 through 1968, the sum of $30,000,000, and for the two fiscal years 1969 through 1970, the sum of $18,500,000, and for the two fiscal years 1971 and 1972, the sum of $17,500,000, and for the two fiscal years 1973 and 1974, the sum of $22,000,000, and for the fiscal year 1975, the sum of $10,100,000, and for fiscal years 1976 and 1977 the sum of $23,440,000 (and such additional amounts as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs), to remain available until expended, to carry out the purposes of this Act. Notwithstanding any other provisions of this Act, not more than $7,000,000 of the funds appropriated pursuant to the preceding sentence for fiscal years 1969 through 1970 may be used for the purpose of research, development, and other studies conducted in whole or in part outside the Agency, whether by other government agencies or by public or private institutions or persons: *Provided,* That this limitation shall not apply to field test activities conducted pursuant to the authority of this Act."

All but $1,668,900 of the original $10 million authorization was exhausted by $831,100 transferred from the Department of State and the $1 million appropriated by Public Law 87-332 for fiscal year 1962 and the $6.5 million appropriated by Public Law 87-843 for fiscal year 1963. (An additional $261,000 of the original $10 million authorization was used by the appropriations for fiscal years 1971 and 1972, and $10,000 was used for fiscal years 1976 and 1977.)

Public Law 88-186 added the $20 million authorization for fiscal years 1964 and 1965, for which $7.5 million was appropriated by Public Law 88-245 for fiscal year 1964 and $9 million was appropriated by Public Law 88-527 for fiscal year 1965. Public Law 89-27 added the $30 million authorization for fiscal years 1966, 1967, and 1968, for which $10 million was appropriated by Public Law 89-164 for fiscal year 1966, $9 million was appropriated by Public Law 89-797 for fiscal year 1967, and $9 million was appropriated by Public Law 90-133 for fiscal year 1968. Public Law 90-314 added the $18.5 million authorization for fiscal years 1969 and 1970 and the third sentence of the subsection. Public Law 90-470 appropriated $9 million for fiscal year 1969 and Public Law 91-153 appropriated $9.5 million for fiscal year 1970.

Public Law 91-246 added the $17.5 million authorization for fiscal years 1971 and 1972, for which $8,250,000 was appropriated by Public Law 91-472 and $395,000 by Public Law 92-18 for fiscal year 1971, and $9 million was appropriated by Public Law 92-77 and $116,000 by Public Law 92-306 for fiscal year 1972. (Because these appropriations exceeded the $17.5 million authorized for 1971 and 1972, $261,000 of the original $10 million authorization was used to cover the excess.) Public Law 92-352 added the $22 million authorization for fiscal years 1973 and 1974, for which $10 million was appropriated by Public Law 92-544 for fiscal year 1973 and $7,735,000 was appropriated by Public Law 93-162 and $330,000 by Public Law 93-305 for 1974. Public Law 93-332 added the $10.1 million authorization for fiscal year 1975, for which $9,250,000 was appropriated by Public Law 93-433 and $160,000 by Public Law 94-32.

Public Law 91-141 added the $23,440,000 authorization for fiscal years 1976 and 1977 as well as the provision in parentheses for additional amounts, and Public Law 94-144 authorized "such funds as may be necessary" for the 3 month period of July 1, 1976 through Sept. 30, 1976 between fiscal years 1976 and 1977. Public Law 94-121 appropriated $10.5 million for fiscal year 1976 and $2.7 million for this transition quarter. Public Law 94-303 appropriated an additional $950,000 (including not to exceed $5,000 for official reception and representation expenses) in title I for fiscal year 1976 and $250,000 for the transition quarter, and $230,000 in title II for fiscal year 1976 and $80,000 in title III for the transition quarter for increased pay costs. (The availability of fiscal year 1976 appropriations was extended through the transition quarter by sec. 203 of Public Law 93-554.) For fiscal year 1977, $12 million (including not to exceed $10,000 for official reception and representation expenses) was appropriated by Public Law 94-362 and $200,000 was appropriated by Public Law 95-26 and $220,000 by Public Law 95-86 for increased pay costs. (Because the appropriations for other than increased pay costs exceeded the $23,440,000 authorization for fiscal years 1976 and 1977, $10,000 of the original $10 million authorization was used to cover the excess.)

Of the amount authorized for fiscal years 1976 and 1977, sec. 142 of Public Law 94-141 directed the use of not to exceed $1,000,000 for a study of the impact upon military expenditures of arms control measures mutually agreed to by the United States and the Soviet Union and sec. 143 specified $440,000 for the conduct of additional research, in consultation with the International Atomic Energy Agency, with respect to the development of nuclear safeguard techniques.

(b) Funds appropriated pursuant to this section may be allocated or transferred to any agency for carrying out the purposes of this Act. Such funds shall be available for obligation and expenditure in accordance with authority granted in this Act, or under authority governing the activities of the agencies to which such funds are allocated or transferred.

(c) Not more than 20 per centum of any appropriation made pursuant to this Act shall be obligated and/or reserved during the last month of a fiscal year.[76]

(d) [77] Beginning with its request to the Congress for an authorization of appropriations for the fiscal year 1980, and with such request for each fiscal year thereafter, the Agency shall accompany such request with a detailed budget for each bureau and functional category within each bureau, which budget shall set forth and justify obligations and outlays for the fiscal year for which such request is made and for the fiscal year preceding and next following such year.

REPORT TO CONGRESS

Sec. 50.[78] The Director shall submit to the President, for transmittal to the Congress, not later than January 31 of each year, a

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For fiscal year 1978, $13.6 million (including not to exceed $10,000 for official reception and representation expenses) was appropriated by Public Law 95-86, $2,370,000 (including not to exceed $2,500 for official reception and representation expenses) was appropriated by title I of Public Law 95-355, and $350,000 was appropriated by title II of Public Law 95-355 for increased pay costs. For fiscal year 1979, $16,395,000 (including not to exceed $15,000 for official reception and representation expenses) was appropriated by Public Law 95-431, $925,000 was appropriated by ch. IX of title I of Public Law 96-38, and $400,000 was appropriated by title II of Public Law 96-38 for increased pay costs.

Title V of Public Law 96-68 appropriated $18,270,000 (including not to exceed $16,500 for official reception and representation expenses) for fiscal year 1980 of which $720,000 was subsequently rescinded (45 F.R. 27687).

Sec. 101(o) of Public Law 96-536 appropriated the sum contained in H.R. 7584 ($18,500,000 including not to exceed $16,500 for official reception and representation expenses) on a continuing basis for fiscal year 1981 of which $1,500,000 was subsequently rescinded (46 F.R. 18282).

Sec. 101(h) of Public Law 97-92 appropriated the sum contained in H.R. 4169 as passed by the House ($16,768,000 including not to exceed $16,500 for official reception and representation expenses) on a continuing basis for fiscal year 1982.

For fiscal year 1983, sec. 101(d) of Public Law 97-377 (at 96 Stat. 1866) appropriated the sum contained in S. 2956 as reported in the Senate on Sept. 24, 1982 ($15,142,000 including not to exceed $20,000 for official reception and representation expenses) on a continuing basis, Title I of Public Law 98-63 appropriated $564,000, and Title II of Public Law 98-63 appropriated $300,000 for increased pay costs.

For fiscal year 1984, title III of Public Law 98-166 appropriated $18,500,000 (including not to exceed $24,000 for official reception and representation expenses) and Title II of Public Law 98-396 appropriated $128,000 for increased pay costs.

For fiscal year 1985, Title III of Public Law 98-411 appropriated $19,468,000 including not to exceed $28,000 for official reception and representation expenses. Title I of Public Law 99-88 appropriated $4,134,000 including not to exceed an additional $10,000 for official reception and representation expenses in supplemental funds for fiscal year 1985.

For fiscal year 1986, Title V of Public Law 99-180 appropriated $25,850,000 including not to exceed $43,000 for official reception and representation expenses, of which $1,112,000 was sequestered under Public Law 99-177.

For fiscal year 1987, Sec. 101(b) of Public Laws 99-591 and 99-500 appropriated $29,000,000 including not to exceed $48,000 for official reception and representation expenses, Title II of Public Law 100-71 appropriated $124,000 for increased pay costs, and Title III of Public Law 100-71 appropriated $176,000 for increased costs for retirement contributions.

[76] Sec. 4 of Public Law 88-186 added this subsection.

[77] Subsec. (d) was added by sec. 3 of Public Law 95-338. Sec. 148 of Public Law 94-141 repealed a previous subsec. (d). Added by sec. 4 of Public Law 88-186, it had read: "None of the funds herein authorized to be appropriated shall be used to pay for the dissemination within the United States of propaganda concerning the work of the United States Arms Control and Disarmament Agency."

[78] 22 U.S.C. 2590.

report concerning activities of the Agency. Such report shall include a complete and analytical statement of arms control and disarmament goals, negotiations, and activities and an appraisal of the status and prospects of arms control negotiations and of arms control measures in effect.[79]

SPECIALISTS FLUENT IN RUSSIAN LANGUAGE

Sec. 51.[80] The Director is authorized to create up to eight additional permanent personnel positions at both junior and more senior levels for specialists in Soviet foreign and military policies, arms control, or strategic affairs, who also demonstrate fluency in the Russian language.

REPORTS ON ADHERENCE TO AND COMPLIANCE WITH AGREEMENTS

Sec. 52.[81] The Congress determines that the achievement and maintenance of successful controls upon armaments requires official and public confidence that the parties are expected to adhere to their commitments and that the parties will be held accountable for failure to meet obligations. Without such confidence, existing arms control accords are eroded, and the prospects are jeopardized for new agreements which can place further controls on the competition in nuclear and conventional weapons and which can increase international stability. In accordance with this determination—

(1) the President shall submit, not later than January 31 of each year, to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report prepared by the Director, in coordination with the Secretary of State, the Secretary of Defense, the Secretary of Energy, the Chairman of the Joint Chiefs of Staff, and the Director of Central Intelligence, on the adherence of the United States, the Soviet Union, and other nations to obligations undertaken in arms control agreements and on any problems related to compliance by the Soviet Union and other nations with the provisions of bilateral and multilateral arms control agreements to which the United States is a party;

(2) the section of the report dealing with United States adherence shall include information on the policies and organization of each relevant agency or department of the United States to ensure adherence, a description of national security programs with a direct bearing on adherence questions and of steps being taken to ensure adherence, and a compilation of any substantive questions raised during the previous year regarding United States adherence, together with an assessment of such issues and the need for any corrective action;

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[79] Sec. 149 of Public Law 94-141 added the last sentence to this section.

[80] 22 U.S.C. 2591. Sec. 4 of Public Law 98-202 added this section.

[81] 22 U.S.C. 2592. Sec. 703 of Public Law 99-93 added the introductory portion of sec. 52 and paragraphs (1), (2) and (5), originally paragraph (3). Previously sec. 5 of Public Law 98-202 had provided that "The President shall prepare and transmit to the Congress a report on the record of the compliance or noncompliance of the Soviet Union with existing arms control agreements to which the Soviet Union is a party."

Paragraphs (3) and (4) and specific references to the Soviet Union in paragraphs (1) and (5) were added by sec. 5 of Public Law 100-213.

(3) the section of the report dealing with Soviet adherence shall include information on actions taken by the Soviet Union with regard to the size, structure, and disposition of its military forces in order to comply with arms control agreements;

(4) the section of the report dealing with adherence by other nations shall include information on actions taken by each such nation with regard to the size, structure, and disposition of its military forces in order to comply with arms control agreements; and

(5) the section of the report dealing with problems of compliance by the Soviet Union and other nations shall include, in the case of each treaty or agreement about which compliance questions exist—

(A) a description of each significant issue raised and efforts made and contemplated with the other party to seek a resolution of the difficulty;

(B) an assessment of damage, if any, to United States security and other interests; and

(C) recommendations as to any steps which should be considered to redress any damage to United States national security and to reduce compliance problems.

The report required by this section shall be provided in unclassified form, with classified annexes, as appropriate.

ACDA INSPECTOR GENERAL

Sec. 53.[82] (a) ESTABLISHMENT AND DUTIES.—There shall be an Office of the Inspector General at the Agency headed by the Inspector General of the Agency who shall have the duties, responsibilities, and authorities specified in the Inspector General Act of 1978.

(b) DUALITY OF APPOINTMENT.—An individual appointed to the position of Inspector General of the Department of State shall, by virtue of such appointment, also hold the position of Inspector General of the Agency.

(c) UTILIZATION OF STAFF.—The Inspector General of the Agency shall utilize personnel of the Office of the Inspector General of the Department of State in performing the duties of the Inspector General of the Agency, and shall not appoint any individuals to positions within the Agency.

(d) REFERENCES.—For purposes of this section, references in the Inspector General Act of 1978 to the establishment involved, to the head of the establishment, and to an Inspector General shall be deemed to be references to the Agency, the Director of the Agency, and Inspector General of the Agency, respectively, except to the extent inconsistent with this section.

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[82] 22 U.S.C. 2593. Sec. 53 was added by sec. 6(a) of Public Law 100-213.

2. Arms Control and Disarmament Act Authorization for Fiscal Years 1988 and 1989

Partial text of Public Law 100-213 [H.R. 2689], 101 Stat. 1444, approved December 24, 1987

> NOTE.—Except for the provisions included below, the Act authorizing appropriations for ACDA for fiscal years 1988 and 1989 consists of amendments to the Arms Control and Disarmament Act. Those amendments have been incorporated into that Act at the appropriate places.

An Act To amend the Arms Control and Disarmament Act to authorize appropriations for the fiscal years 1988 and 1989 for the Arms Control and Disarmament Agency, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Arms Control and Disarmament Amendments Act of 1987".

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SEC. 3. STANDING CONSULTATIVE COMMISSION.

(a) FINDINGS.—The Congress finds that—

(1) the Standing Consultative Commission was established by the United States and the Soviet Union under Article XIII of the Treaty on the Limitation of Anti-Ballistic Missile Systems as a framework for considering and resolving questions concerning compliance with arms control obligations; and

(2) the United States should raise and attempt to resolve issues relating to compliance by the United States and the Soviet Union with arms control agreements in the Standing Consultative Commission.

(b)[1] * * *

(c) STUDY AND REPORT.—The Director of the United States Arms Control and Disarmament Agency shall conduct a study to determine how the Standing Consultative Commission could be used more effectively to resolve arms control compliance issues. The Director shall report the results of this study to the Speaker of the House of Representatives and the chairman of the Committee on

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[1] Subsec. (b) amended title III of the Arms Control and Disarmament Act by adding a new sec. 38 requiring the President to submit to Congress an annual report on the activities of the Standing Consultative Commission. For text, see page 785.

Foreign Relations of the Senate within 6 months after the date of enactment of this Act.

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SEC. 6. ACDA INSPECTOR GENERAL

(a)[2] * * *

(b) SURVEY OF ACDA CLASSIFIED INFORMATION SECURITY.—Not later than 90 days after the date of enactment of this Act, the Inspector General of the United States Arms Control and Disarmament Agency—

(1) shall conduct a survey of physical, personnel, document, and communications security programs, procedures, and practices at the Agency for the protection of classified information; and

(2) shall submit a report on the results of that survey, together with such recommendations for improvement of classified information security at the Agency as the Inspector General considers appropriate, to the Director of the Agency and to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

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[2] Subsec. (a) amended title IV of the Arms Control and Disarmament Act by adding a new sec. 53 establishing an Office of the Inspector General of the Arms Control and Disarmament Agency. For text, see page 798.

3. Arms Control and Disarmament Act Authorization for Fiscal Years 1986 and 1987

Partial text of Public Law 99-93 [H.R. 2068], 99 Stat. 405, approved August 16, 1985

> NOTE.—Except for the provisions included below, the Act authorizing appropriations for ACDA for fiscal years 1986 and 1987 consists of amendments to the Arms Control and Disarmament Act. Those amendments have been incorporated into that Act at the appropriate places.

AN ACT To authorize appropriations for fiscal years 1986 and 1987 for the Department of State, the United States Information Agency, the Board for International Broadcasting, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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SEC. 705. NEW BUILDING IN GENEVA FOR THE USE OF THE UNITED STATES ARMS CONTROL NEGOTIATING TEAMS.

(a) FINDINGS.—The Congress finds that—

(1) the United States is party to vital talks on arms control in Geneva, Switzerland;

(2) these talks include negotiations on strategic nuclear weapons, intermediate range nuclear weapons, space and defense systems, a bilateral United States-Soviet forum, called the Standing Consultative Commission and a multilateral forum, called the Conference on Disarmament;

(3) the United States delegations to these talks occupy buildings and spaces insufficiently secure, modernized, or large enough to permit those delegations to conduct their work efficiently;

(4) the United States delegations to the strategic, intermediate and space and defense talks in particular occupy space in the Botanic Building that is also occupied by offices of numerous other, non-United States organizations, and shares common walls and parking facilities with these delegations;

(5) arms control negotiations require sophisticated security facilities, telecommunications equipment, simultaneous translation capabilities and other specialized services; and

(6) the Soviet Union, for its part, has made available for its negotiating team a modern, secure, well-equipped building dedicated for the use of its arms control negotiating teams.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) in order to facilitate the effective work of the United States arms control negotiating teams, and to provide for them a dedicated structure capable of supporting their vital tasks on a permanent basis, the Secretary of State should submit to the Congress a report on the feasibility, cost, location, and requirements of a structure to house the United States arms control negotiating teams in Geneva;

(2) this report should be submitted as soon as possible; and

(3) this matter should be included in the consideration of the 1985 supplemental appropriation process.

SEC. 706. STUDY OF MEASURES TO ENHANCE CRISIS STABILITY AND CONTROL.

(a) Study.—The Secretary of State and the Director of the Arms Control and Disarmament Agency shall conduct a detailed and complete study and evaluation of additional measures which both enhance the security of the United States and reduce the likelihood of nuclear weapons use by contributing to crisis stability or crisis control capabilities, including specific consideration of the following measures:

(1) Increased redundancy of direct communications link circuits, including the creation of new survivable circuits and terminals, located outside the national capital which have access to the command and control system of the country in which they are located.

(2) Establishment of redundant, survivable direct communications links between and among all nuclear-armed states.

(3) Conclusion of an agreement creating "non-target" sanctuaries only for certain direct communications link circuits to enhance survivability of communications.

(4) Creation in advance of standard operating procedures for communicating, and possibly cooperating, with the Soviet Union and other states in the event of nuclear attacks by third parties on either the United States or Soviet Union.

(5) Addition to the Incidents At Sea agreement of a prohibition on the "locking on" of fire control radars on ships and planes of the other side, an agreement on the separation of naval forces during specified periods of crisis, and other such measures relevant to the Incidents At Sea agreement.

(6) Placement by the United States and the Soviet Union of unmanned launch sensors in the land-based missile fields of both countries.

(7) Establishment of anti-submarine operations free zones designed to enhance the security of ballistic missile submarines.

(8) Installation of permissive action links aboard the ballistic missile submarines of the United States, which might possibly be activated or deactivated at various levels of alert, and encouragement of the Soviet Union to do the same.

(9) Establishment of training programs for National Command Authority officials to familiarize them with alert procedures, communications capabilities, nuclear weapons release authority procedures, and the crisis control and stability implications thereof.

(10) Include in standard operating procedure the relocation in a crisis of a National Command Authority official outside Washington, D.C. to a secure location with access to the strategic command and control system, and announce the institution of this procedure to relevant foreign governments.

(b) REPORT.—The Secretary of State and the Director of the Arms Control and Disarmament Agency shall submit a report of the study and evaluation under subsection (a) to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs of the House of Representatives by January 1, 1986. Such report should be available in both a classified, if necessary, and unclassified format.

SEC 707. POLICY TOWARD BANNING CHEMICAL WEAPONS.

(a) FINDINGS. —The Congress finds that—

(1) chemical weapons are among the most terrible weapons in today's military arsenals;

(2) it is the objective of the United States to eliminate the threat of chemical warfare through a comprehensive and verifiable ban on chemical weapons;

(3) the United States is vigorously pursuing a multilateral agreement to ban chemical weapons;

(4) the negotiation of a verifiable, bilateral agreement between the United States and the Soviet Union would be a significant step toward achieving a worldwide ban on chemical weapons;

(5) bilateral discussions relating to a ban on chemical weapons took place in July and August of 1984 between the United States and Soviet delegations to the Conference on Disarmament; and

(6) such endeavors could serve the security interests of humankind.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the President—

(1) should be commended for his efforts to negotiate a multilateral agreement banning chemical weapons;

(2) should continue to pursue vigorously such an agreement; and

(3) should seek the continuation and development of bilateral discussions between the United States and the Soviet Union to achieve a comprehensive and verifiable ban on chemical weapons.

SEC. 708. POLICY REGARDING A JOINT STUDY BY THE UNITED STATES AND THE SOVIET UNION OF THE CONSEQUENCES OF NUCLEAR WINTER.

It is the sense of the Congress that the President should propose to the Government of the Soviet Union during any arms control talks held with such Government that—

(1) the United States and the Soviet Union should jointly study the atmospheric, climatic, environmental, and biological consequences of nuclear explosions, sometimes known as "nuclear winter", and the impact that nuclear winter would have on the national security of both nations;

(2) such a joint study should include the sharing and exchange of information and findings on the nuclear winter phenomena and make recommendations on possible joint research projects that would benefit both nations; and

(3) at an appropriate time the other nuclear weapons states (the United Kingdom, France, and the People's Republic of China) should be involved in the study.

4. Arms Control Provisions in Department of Defense Authorization Acts[1]

a. National Defense Authorization Act, Fiscal Year 1989

Partial text of Public Law 100-456 [H.R. 4481], 102 Stat. 1918, approved September 29, 1988

AN ACT To authorize appropriations for fiscal year 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

* * * * * * *

TITLE IX—MATTERS RELATING TO ARMS CONTROL

SEC. 901. SENSE OF CONGRESS ON EXPANDING CONFIDENCE-BUILDING MEASURES

(a) FINDINGS.—Congress makes the following findings:

(1) Approximately two years have passed since the Conference on Confidence- and Security-Building Measures and Disarmament in Europe (CDE) adjourned in Stockholm following the adoption of measures designed to increase openness and predictability of military activities in Europe.

(2) To date, there have been seven formal observations and challenge inspections which have been conducted in accordance with the Stockholm agreements.

(3) The military leaders of the North Atlantic Treaty Organization have concluded that the Stockholm observations and inspections have positively contributed to an improved understanding of Warsaw Pact forces and capabilities.

(4) The Conventional Stability Talks (CST), which may begin before the end of 1988, will likely require careful and potentially prolonged negotiation.

(5) New negotiations will also begin under the auspices of the Conference on Security and Cooperation in Europe (CSCE) as a follow-on to the Stockholm conference.

(6) The confidence-building measures established at Stockholm could, if expanded, contribute significantly to the success of the CDE follow-on conference and also to the establishment of a procedural framework for verifying a future CST agreement.

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[1] Other provisions contained in Department of Defense authorization acts that relate to arms control issues, including the Strategic Defense Initiative, may be found in vol. I, sec. A, beginning at page 774. See also vol. V, sec. F, for Arms Control and Disarmament, Treaties and Agreements.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the President should give high priority to developing, in coordination with the North Atlantic Treaty Organization allies of the United States, stabilizing and verifiable proposals for expanding the regime of confidence-building measures in conjunction with the follow-on to the Conference on Confidence- and Security-Building Measures and Disarmament in Europe (CDE) and the new Conventional Stability Talks (CST).

SEC. 902. SENSE OF CONGRESS ON START TALKS

It is the sense of Congress that any agreement negotiated by the President to achieve a reduction and limitation on strategic arms (through the strategic arms reduction talks in Geneva or otherwise)—

(1) should not prevent the United States from deploying a force structure under the agreement which emphasizes survivable strategic systems and, in particular, should not in any way compromise the security of the United States ballistic-missile carrying submarine force, and

(2) should not prohibit or limit the deployment of non-nuclear cruise missiles.

SEC. 903. SENSE OF CONGRESS CONCERNING ROLE OF CONGRESS IN ARMS CONTROL AND DEFENSE POLICIES

It is the sense of Congress—

(1) that Congress, in exercising its authority under the Constitution "to raise and support Armies" and "provide and maintain Navies" and, in the case of the Senate, to advise and consent to the ratification of treaties, has a role to play in formulating arms control and defense policies of the United States, but

(2) that Congress, in exercising that authority, should not usurp, undermine, or interfere with the authority of the President under the Constitution to negotiate and implement treaties, especially in the case of treaties which affect arms control and defense policies of the United States.

SEC. 904. SENSE OF CONGRESS ON THE FIVE-YEAR ABM TREATY REVIEW

(a) FINDINGS.—Congress makes the following findings:

(1) The Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, With Associated Protocol (hereinafter in this section referred to as the "ABM Treaty" or the "Treaty") in Article XIV, Paragraph 2, reads as follows: "Five years after entry into force of this Treaty, and at five-year intervals thereafter, the Parties shall together conduct a review of this Treaty.".

(2) Such Treaty entered into force on October 3, 1972, and the third five-year anniversary date specified for the conduct of the review contemplated in the Treaty, therefore, was October 3, 1987.

(3) As a fundamental principle of the canons of legal construction, a specified number of years after a specific and determinable date means the specified anniversary of such date and therefore the third five-year review of the ABM Treaty should have begun on or about October 3, 1987.

(4) The Parties to the Treaty have not met as required by the Treaty because the United States refused to meet on the date specified in the Treaty for such meeting (October 3, 1987) and has refused since such date to propose a date for the meeting.

(b) SENSE OF CONGRESS.—In light of the findings in subsection (a), it is the sense of Congress that the President should, without any further delay, propose an early date to conduct the overdue five-year review of the ABM Treaty. The President shall inform Congress of the results of that review immediately after it takes place.

SEC. 905. REVISION OF ANNUAL REPORT ON SOVIET COMPLIANCE WITH ARMS CONTROL COMMITMENTS

(a)[2] * * *

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect beginning with the report to be submitted under section 1002 of the Department of Defense Authorization Act, 1986, in 1990.

SEC. 906.[3] ANNUAL REPORT ON ARMS CONTROL STRATEGY

(a) IN GENERAL.—The President shall submit to Congress each year, not later than December 1, a report containing a comprehensive discussion and analysis of the arms control strategy of the United States. The President shall include in each such report the following:

(1) A description of the nature and sequence of the future arms control efforts of the United States.

(2) A net assessment of the current effects of arms control agreements on the status of, and trends in, the military balance between the United States and the Soviet Union and between the North Atlantic Treaty Organization (NATO) and the Warsaw Pact.

(3) A comprehensive data base on the military balance of forces of the United States and the Soviet Union, and the balance of forces of NATO and the Warsaw Pact countries, that are affected by arms control agreements in existence as of the time of the report between the United States and the Soviet Union and between NATO and the Warsaw Pact, including an explanation of the methodology used to analyze the effects on such forces.

(4) A net assessment of the effect that proposed arms control agreements between the United States and the Soviet Union and between NATO and the Warsaw Pact would likely have on United States force plans and contingency plans, including an assessment of the effect that such proposed agreements would have on the risks and costs to the United States.

(5) An assessment of the effect that proposed treaty sub-ceilings, asymmetries, and other factors or qualifications affecting a treaty or arms control proposal would have on the military balance between the United States and the Soviet Union and between NATO and the Warsaw Pact, including an assessment

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[2] Sec. 905(a) amended sec. 1002 of the Department of Defense Authorization Act, 1986 (Public Law 99-145, 22 U.S.C. 2592a). For text, see page 824.

[3] 22 U.S.C. 2592b.

of how such factors increase deterrence and reduce the risk and cost of war.

(6) A statement of the strategy the United States and NATO will use to verify and deter noncompliance with proposed arms control treaties between the United States and the Soviet Union and between NATO and the Warsaw Pact.

(7) A discussion of the extent to which and the manner in which the United States intends to consult with its allies regarding proposed arms control agreements between the United States and the Soviet Union and between NATO and the Warsaw Pact.

(8) A discussion of how the United States proposes to tailor its defense structure in order to ensure that the national security can be preserved with or without arms control agreements.

(b) Explanation of Methodology.—In reporting on the current effect of arms control agreements on the status of, and trends in, the military balance of power between the United States and the Soviet Union and between NATO and the Warsaw Pact (required under paragraphs (2) and (3) of subsection (a)), the President shall—

(1) specify the methodology used in analyzing the military balance between the United States and the Soviet Union and express the results of such analyses in terms of (A) static comparisons, and (B) comparisons that include dynamic factors; and

(2) discuss all major scenarios, assumptions, and contingencies, including political confrontation, full-scale war, and serious confrontations not involving full-scale war.

(c) Form of Report.—The President shall submit such report in both classified and unclassified form.

SEC. 907. REPORT ON ANTIBALLISTIC MISSILE CAPABILITIES AND ACTIVITIES OF THE SOVIET UNION

(a) Study.—The President shall conduct a study regarding the antiballistic missile capability and activities of the Soviet Union. In conducting the study, the President shall assess each of the following:

(1) The military capabilities and significance of the extensive network of large-phased array radars of the Soviet Union.

(2) Whether the Soviet Union is developing or producing mobile or transportable engagement radars in violation of the 1972 Antiballistic Missile Treaty.

(3) The ability of the Soviet Union to develop an effective exoatmospheric antiballistic missile defense without using widespread deployments of traditional engagement radars.

(4) The ability of air defense interceptor missiles of the Soviet Union, now and in the future, to destroy warheads of ballistic missiles in flight.

(5) Whether silos or other hardened facilities of the Soviet Union located outside of the existing antiballistic missile site permitted near Moscow under the terms of the 1972 Antiballistic Missile Treaty are or could be associated with antiballistic missile defenses not permitted under that Treaty.

(6) Whether the Soviet Union is developing terminal antiballistic missile defenses.

(7) Whether the existing antiballistic missile site near Moscow that is permitted under the terms of that Treaty conceals or could conceal development, testing, or deployment by the Soviet Union of a widespread antiballistic missile system.

(8) Activities of the Soviet Union regarding boost-phase intercepts of ballistic missiles.

(9) The status of laser programs, particle-beam programs, and other advanced technology programs of the Soviet Union comparable to programs conducted by the United States under the Strategic Defense Initiative.

(10) The consequences for the United States of a successful effort by the Soviet Union to deploy an effective nationwide or limited antiballistic missile system.

(b) ASSESSMENT OF ABILITY OF UNITED STATES TO COUNTER A SOVIET ABM SYSTEM.—In conducting the study required by subsection (a), the President shall also assess the ability of the United States to counter effectively an effective antiballistic missile system deployed by the Soviet Union. Such assessment shall consider both the deployment by the Soviet Union of a nationwide, and of a limited, antiballistic missile system. In assessing the ability of the United States to counter effectively such a system, the President—

(1) shall consider the ability of the United States to modify (A) existing strategic offensive forces (including modifications involving the development of additional penetration aids), and (B) current strategic doctrine and tactics; and

(2) shall consider whether the actions of the United States described in paragraph (1) could be accomplished over the same period of time that the Soviet Union would require to deploy such an antiballistic missile system.

(c) REPORT.—Not later than January 1, 1989, the President shall submit to Congress a report, in both a classified and an unclassified version, specifying the results of the study conducted pursuant to this section. The report shall include such recommendations as the President considers appropriate, including recommendations with regard to maintaining the deterrent value of the strategic forces of the United States in light of the antiballistic missile capability and activities of the Soviet Union described in the report.

SEC. 908. ANALYSIS OF ALTERNATIVE STRATEGIC NUCLEAR FORCE POSTURES FOR THE UNITED STATES UNDER A POTENTIAL START TREATY

(a) FINDINGS.—Congress makes the following findings:

(1) The United States and the Soviet Union are currently engaged in talks regarding the reduction of strategic nuclear arms.

(2) Such talks could result in a treaty requiring deep reductions in the strategic forces of the United States.

(3) Any such Strategic Arms Reduction Treaty (START) cannot be ratified without the advice and consent of the Senate.

(4) Any such START Treaty should result in a stable balance of strategic forces between the United States and the Soviet Union which enhances the security of the United States.

(5) Congress should provide funds for the forces permitted under such a treaty that are required to ensure the stability of the force balance under such a treaty.

(6) Congress faces critical resource choices for fiscal year 1989 and subsequent fiscal years, and the resource choices made by Congress for those years could substantially influence the strategic force posture of the United States in the period after such a treaty goes into effect.

(b) PRESIDENTIAL REPORT.—Before entering into any Strategic Arms Reduction Treaty or other agreement with the Soviet Union for the reduction of strategic arms, but not later than September 15, 1988, the President shall submit to Congress a comprehensive report on the implications such a treaty or agreement might have on the strategic force postures of the United States during the 1990s. The report shall include the following:

(1) A description of alternative force postures that might be permitted for the United States under such an arms reduction agreement, including the posture recommended by the President.

(2) The estimated costs, over at least a seven-year period, associated with each alternative force posture.

(3) The damage limitation capability, the survivability, and the retaliatory potential of such force posture, and the implications for strategic stability, assessed with regard to the likely force postures of the Soviet Union under such an agreement and the first-strike potential of such force postures.

(4) The likely effect of a breakout by the Soviet Union from such an arms control agreement on the survivability and of the force posture of the United States under such an agreement recommended by the President under paragraph (1).

(c) FORM OF REPORT.—The President shall submit the report under subsection (b) in both classified and unclassified form.

SEC. 909. ON-SITE INSPECTION AGENCY

(a) REPORT REQUIREMENTS.—(1) Not later than six months after the date of the enactment of this Act, the officers named in paragraph (2) shall each submit to the Committee on Armed Services, the Committee on Foreign Affairs, and the Permanent Select Committee on Intelligence of the House of Representatives and the Committee on Armed Services, the Committee on Foreign Relations, and the Select Committee on Intelligence of the Senate an unclassified report, with classified annexes as necessary, on the responsibility of each such officer for the monitoring and verification of arms control agreements. Each such report—

(A) shall address specifically any responsibility the officer submitting the report has with respect to on-site inspections (whether inspections of facilities of the United States or inspections of facilities of another party to the agreement); and

(B) shall set forth the organizational elements of each department or agency over which the officer submitting the report has jurisdiction which have functions related to the monitoring or verification of arms control agreements.

(2) Officers referred to in paragraph (1) are the following:

(A) The Secretary of Defense.

(B) The Secretary of State.

(C) The Director of Central Intelligence.

(D) The Director of the United States Arms Control and Disarmament Agency.

(b) MATTERS TO BE INCLUDED.—Each report under subsection (a) shall—

(1) describe in detail the monitoring and verification activities carried out with respect to the INF Treaty,

(2) evaluate the effectiveness with which these functions have been implemented, and

(3) include recommendations for any future organizational or policy changes that may be necessary in view of the experience of implementing the INF Treaty.

(c) INF TREATY DEFINED.—For purposes of subsection (b), the term "INF Treaty" means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range and Shorter-Range Missiles (signed at Washington on December 9, 1987).

(d) BUDGET REQUESTS.—Any request submitted to Congress by the Executive Branch for authorization of appropriations for the On-Site Inspection Agency for any fiscal year shall, as a separate activity, provide details of all funding and of all military and civilian personnel requested for that Agency for that fiscal year, including the number of such personnel of the Department of Defense and other agencies that will be assigned to on-site inspection activities and to support such activities during that fiscal year.

SEC. 910. COORDINATION OF VERIFICATION POLICY AND RESEARCH AND DEVELOPMENT ACTIVITIES

(a) REPORT.—Not later than June 30, 1989, the President shall submit to Congress a report reviewing the relationship of arms control objectives of the United States with research and development of improved monitoring systems for arms control verification. The review shall include the participation of the Secretaries of Defense, State, and Energy, the Director of Central Intelligence, and the Director of the United States Arms Control and Disarmament Agency.

(b) FINDINGS AND RECOMMENDATIONS.—The report shall include the findings of the President, and such recommendations for improvements as the President considers appropriate, with respect to the following:

(1) The status of coordination among the officers named in subsection (a) in the formulation of the policy of the United States regarding arms control verification.

(2) The status of efforts to ensure that such policy is formulated in a manner which takes into account available monitoring technology.

(3) The status of efforts to ensure that research and development on monitoring technology evolves concurrently with such policy.

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b. National Defense Authorization Act for Fiscal Years 1988 and 1989

Partial text of Public Law 100-180 [H.R.1748], 100 Stat. 1019, approved December 4, 1987

AN ACT To authorize appropriations for fiscal years 1988 and 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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TITLE IX—MATTERS RELATING TO ARMS CONTROL

SEC. 901. MISSILE TECHNOLOGY CONTROL REGIME

(a) FINDINGS.—The Congress finds that—

(1) the proliferation of nuclear weapons and of missiles capable of the delivery of nuclear weapons is a threat to international peace and security;

(2) in the early 1980's, the danger of the proliferation of such weapons and missiles was formally recognized in discussions among the governments of the United States, Canada, France, the Federal Republic of Germany, Italy, Japan, and the United Kingdom; and

(3) these seven governments, after four years of negotiations, on April 7, 1987, concluded an agreement known as the Missile Technology Control Regime, for the purpose of limiting the proliferation of missiles capable of the delivery of nuclear weapons (and hardware and technology related to such missiles) throughout the world.

(b) EXPRESSIONS OF CONGRESS.—The Congress—

(1) expresses its firm support for the Missile Technology Control Regime as a means of enhancing international peace and security;

(2) expresses its strong hope that all nations of the world will adhere to the Guidelines of the Missile Technology Control Regime; and

(3) expresses its expectation that all relevant agencies of the United States Government will ensure the fully effective implementation of this regime.

(c) REPORT ON MANPOWER REQUIRED TO IMPLEMENT THE MISSILE TECHNOLOGY CONTROL REGIME.—(1) Not later than February 1, 1988, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report—

(A) identifying the functional responsibilities of the Department of Defense for implementing the Missile Technology Control Regime;

(B) describing the number and skills of personnel currently available in the Department of Defense to perform these functions; and

(C) assessing the adequacy of these resources for the effective performance of these responsibilities.

(2) The report required by paragraph (1) shall identify the total number of current Department of Defense full-time employees or military personnel and the grades of such personnel and the special knowledge, experience, and expertise of such personnel, required to carry out each of the following responsibilities of the Department under the regime:

(A) Review of private-sector export license applications and government-to-government cooperative activities.

(B) Intelligence analysis and activities.

(C) Policy coordination.

(D) International liaison activity.

(E) Enforcement and technology security operations.

(F) Technical review.

(3) The report shall include the Secretary's assessment of the adequacy of staffing in each of the categories specified in subparagraphs (A) through (F) of paragraph (2) and shall make recommendations concerning measures, including legislation if necessary, to eliminate any identified staffing deficiencies and to improve interagency coordination with respect to the regime.

SEC. 902. SENSE OF CONGRESS ON THE KRASNOYARSK RADAR

(a) FINDINGS.—The Congress finds the following:

(1) The 1972 Anti-Ballistic Missile Treaty prohibits each party to the Treaty from deploying ballistic missile early warning radars except at locations along the periphery of its national territory and oriented outward.

(2) The 1972 Anti-Ballistic Missile Treaty prohibits each party to the Treaty from deploying an anti-ballistic missile system to defend its national territory and from providing a base for any such nationwide defense.

(3) Large phased-array radars were recognized during negotiation of the 1972 Anti-Ballistic Missile Treaty as the critical long lead-time element of a nationwide defense against ballistic missiles.

(4) In 1983 the United States discovered the construction, in the interior of the Soviet Union near the town of Krasnoyarsk, of a large phased-array radar that has subsequently been judged to be for ballistic missile early warning and tracking.

(5) The Krasnoyarsk radar is more than 700 kilometers from the Soviet-Mongolian border and is not directed outward but instead, faces the northeast Soviet border more than 4,500 kilometers away.

(6) The Krasnoyarsk radar is identical to other Soviet ballistic missile early warning radars and is ideally situated to fill the gap that would otherwise exist in a nationwide Soviet ballistic missile early warning radar network.

(7) The President has certified that the Krasnoyarsk radar is an unequivocal violation of the 1972 Anti-Ballistic Missile Treaty.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the Soviet Union is in violation of its legal obligation under the 1972 Anti-Ballistic Missile Treaty.

SEC. 903. REPORT ON COMPLIANCE BY THE SOVIET UNION WITH THRESHOLD TEST BAN TREATY

(a) IN GENERAL.—The President shall submit to Congress, not later than 30 days after the date of the enactment of this Act, a report discussing the use of the current official United States method of estimating the yield of Soviet underground nuclear tests to determine the extent to which the Soviet Union is complying with the 150 kiloton limit on underground nuclear tests contained in the Threshold Test Ban Treaty.

(b) FORM AND CONTENT OF REPORT.—The report shall be submitted in both classified form and (if possible) unclassified form and shall include the following matters:

(1) A discussion of whether past assessments made by the United States of the extent of Soviet compliance with the 150 kiloton limit contained in the Threshold Test Ban Treaty would have been different if the United States, in making those assessments, had used the current official United States method of estimating the yield of underground nuclear tests conducted by the Soviet Union.

(2) The number of nuclear tests conducted by the Soviet Union after March 31, 1976, that have a central value exceeding 150 kilotons yield (estimated on the basis of the current official method used by the United States in estimating underground nuclear test yields), the central value of those tests (estimated on such basis), and the dates on which those tests were conducted.

(3) The number, dates, and estimated central values of tests, if any, conducted by the United States after March 31, 1976, which, if measured on the basis of the current official method used by the United States in estimating Soviet underground nuclear test yields (taking into account the differences between the United States and Soviet test sites), would have an indicated central value exceeding 150 kilotons yield.

(4) The number of tests conducted by the United States after March 31, 1976, if any, which actually had yields exceeding 150 kilotons, the estimated central value of each such test, and the date on which each such test was conducted.

(5) A description of all nuclear testing activities of the Soviet Union which the President has found to be likely violations of the legal obligations under the Threshold Test Ban Treaty, the dates on which those activities took place, and the specific legal obligations under the Threshold Test Ban Treaty likely to have been violated by the Soviet Union in conducting such activities.

(6) A discussion of whether and, if so, the extent to which, the President, in arriving at his finding that several nuclear tests conducted by the Soviet Union constituted a likely viola-

tion of legal obligations under the Threshold Test Ban Treaty, considered the mutual agreement contained in the Threshold Test Ban Treaty which permits one or two minor, unintended breaches of the 150 kiloton limit per year to be considered nonviolations of the Treaty.

(7) A detailed comparison of the current official method used by the United States Government in estimating Soviet underground nuclear test yields with the method replaced by the current method, and the date on which the current official method was adopted by the United States.

SEC. 904. CONGRESSIONAL FINDINGS AND DECLARATIONS CONCERNING ARMS CONTROL NEGOTIATIONS

(a) CONGRESSIONAL FINDINGS.—The Congress makes the following findings:

(1) The United States and the Soviet Union are currently engaged in negotiations to conclude a treaty on intermediate-range nuclear forces (INF) and are continuing serious negotiations on other issues of vital importance to the national security of the United States.

(2) The current negotiations, which reflect delicate compromises on both sides, are a culmination of years of detailed and complex negotiations in which the negotiators for the United States have been pursuing a policy consistently advocated by the past two Presidents regarding nuclear arms control in the European theater.

(3) While recognizing fully that the President, under clause 2, section 2, article II of the Constitution, has the power, by and with the advice and consent of the Senate, to make treaties, the Congress also recognizes the special responsibility conferred by the Founding Fathers on the Senate in requiring that it give its advice and consent before a treaty may be ratified by the United States and that in carrying out this responsibility the Senate is accountable to the people of the United States and has a duty to ensure that no treaty is ratified which would be detrimental to the welfare and security of the United States.

(4) In recognition of this responsibility, the Senate has established a special continuing oversight body, the Arms Control Observer Group, which over the last two and one-half years has functioned to provide advice and counsel to the President and his negotiators, when appropriate, on a continuing basis during the course of the negotiations to achieve an INF treaty.

(5) The Senate and the President both have a role under the Constitution in the making of treaties and Congress as a whole has a role under the Constitution in the regulating of expenditures, including expenditures for weapons systems that may be the subject of treaty negotiations.

(b) CONGRESSIONAL DECLARATIONS.—In light of the findings in subsection (a), Congress—

(1) fully supports the efforts of the President to negotiate stabilizing, equitable, and verifiable arms reduction treaties with the Soviet Union;

(2) endorses the principle of mutuality and reciprocity in arms control negotiations with the Soviet Union and cautions that neither the Congress nor the President should take actions which are unilateral concessions to the Soviet Union; and

(3) urges the President to take care that no provision is agreed to in those negotiations that would be harmful to the security of the United States or its allies and friends.

(c) DECLARATION OF THE SENATE.—The Senate declares that it will reserve judgment regarding the approval of any arms control treaty until it has conducted a thorough examination of the provisions of the treaty and has assured itself that those provisions—

(1) are effectively verifiable; and

(2) serve to enhance the strength and security of the United States and its allies and friends.

SEC. 905. REPORT ON MILITARY CONSEQUENCES OF THE ELIMINATION OF BALLISTIC MISSILES

(a) REPORT REQUIREMENT.—Not later than 30 days after the date of the enactment of this Act, the Chairman of the Joint Chiefs of Staff shall submit to the Committees on Armed Services of the Senate and House of Representatives a report examining the military consequences of any arms control agreement between the United States and the Soviet Union that would provide for the elimination of all strategic ballistic missiles of the United States and the Soviet Union.

(b) MATTERS TO BE DISCUSSED.—Such report shall be submitted in both classified and unclassified form and shall include a discussion of the strategic, budgetary, and force structure implications of an agreement described in subsection (a) for—

(1) conventional defenses of the United States and its allies in Europe, the Far East, and other regions vital to the national security of the United States;

(2) tactical nuclear deterrence by the United States in those regions;

(3) strategic offensive retaliatory systems of the United States that would not be affected by such an agreement, including bomber forces and cruise missiles;

(4) air defenses of the United States needed to counter bomber forces and cruise missiles of the Soviet Union;

(5) Strategic Defense Initiative programs designed to provide possible defenses against strategic ballistic missiles; and

(6) any new programs which the Chairman of the Joint Chiefs of Staff may consider necessary in order for the United States to protect its national security interests in light of the relative advantage conferred by such an agreement on other nations possessing nuclear weapons whose strategic ballistic missile forces would not be affected by the agreement.

SEC. 906. REPORT ON IMPLICATIONS OF CERTAIN ARMS CONTROL POSITIONS

Not later than June 30, 1988, the Secretary of Defense shall submit to Congress a report, in both classified and unclassified versions, containing the following:

(1) A description of the quantitative and qualitative implications for the strategic modernization program of the United

States of the publicly-announced position of the United States at the Strategic Arms Reduction Talks in Geneva, giving special, but not exclusive, attention to the implications of such position for the Trident SSBN program, the rail-garrison Peacekeeper program, and the small intercontinental ballistic missile ("Midgetman") program.

(2) A description of the advantages and drawbacks of following the recommendations made in 1983 in the report of the President's Commission on Strategic Forces with regard to research on smaller ballistic-missile carrying submarines, each carrying fewer missiles than the Trident, as a potential follow-on to the Trident submarine force.

(3) The recommendations of the Secretary of Defense with regard to paragraphs (1) and (2) on United States force modernization policy and arms control policy.

SEC. 907. SUPPORT FOR NUCLEAR RISK REDUCTION CENTERS

(a) Congress applauds the recent signing of an agreement between the United States and the Soviet Union on the establishment of nuclear risk reduction centers. Congress regards this agreement as an important and practical first step in reducing the threat of nuclear war due to accident, misinterpretation, or miscalculation. Congress notes that the agreement calls for centers to be established in each nation's respective capital for the routine exchange of information and advanced notification of nuclear and missile testing.

(b) It is the hope of Congress that this first step in nuclear risk reduction will increase the confidence and mutual trust of both parties to the agreement and lead to an expansion in functions to reduce further the chances of accidental war. Such functions may include joint discussions on crisis prevention and the development of strategies to deal with incidents or threats of nuclear terrorism, nuclear proliferation, or other mutually agreed upon issues of concern in reducing nuclear risk.

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c. Department of Defense Authorization Act, 1987

Partial Text of Public Law 99-661 [S.2368], 100 Stat. 3816, approved November 14, 1986

AN ACT To authorize appropriations for fiscal year 1987 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, to improve the defense acquisition process, and for other purposes

Be it enacted by the State and House of Representations of the United States of American in Congress assembled,

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TITLE X—ARMS CONTROL MATTERS

SEC. 1001. SENSE OF THE CONGRESS RELATING TO SALT II COMPLIANCE

(a) CONTINUED ADHERENCE TO SALT II NUMERICAL SUBLIMITS.—It is the sense of the Congress that it is in the national security interests of the United States to continue voluntary compliance with the central numerical sublimits of the SALT II Treaty as long as the Soviet Union complies with such sublimits.

(b) DEFINITION.—For purposes of this section, the central numerical sublimits of the SALT II Treaty include prohibitions on the deployment of the following:

(1) Launchers for more than 820 intercontinental ballistic missiles carrying multiple independently-targetable reentry vehicles.

(2) Launchers for an aggregate of more than 1,200 intercontinental ballistic missiles carrying multiple independently-targetable reentry vehicles and submarine-launched ballistic missiles carrying multiple independently-targetable reentry vehicles.

(3) An aggregate of more than 1,320 launchers described in paragraph (2) and heavy bombers equipped for air-launched cruise missiles capable of a range in excess of 600 kilometers.

SEC. 1002. SENSE OF THE CONGRESS ON NUCLEAR TESTING

(a) FINDINGS.—The Congress makes the following findings:

(1) The United States is committed in the Limited Test Ban Treaty of 1963 and in the Non-Proliferation Treaty of 1968 to seek to achieve the discontinuance of all test explosions of nuclear weapons for all time.

(2) A comprehensive test ban treaty would promote the security of the United States by constraining the United States-Soviet nuclear arms competition and by strengthening efforts to prevent the proliferation of nuclear weapons.

(3) The Threshold Test Ban Treaty was signed in 1974 and the Peaceful Nuclear Explosions Treaty was signed in 1976,

and both have yet to be considered by the full Senate for its advice and consent to ratification.

(4) The entry into force of the Peaceful Nuclear Explosions Treaty and the Threshold Test Ban Treaty will ensure full implementation of significant new verification procedures and so make completion of a comprehensive test ban treaty more probable.

(5) A comprehensive test ban treaty must be adequately verifiable, and significant progress has been made in methods for detection of underground nuclear explosions by seismological and other means.

(6) At present, negotiations are not being pursued by the United States and the Soviet Union toward completion of a comprehensive test ban treaty.

(7) The past five administrations have supported the achievement of a comprehensive test ban treaty.

(b) SENSE OF CONGRESS.—It is the sense of Congress that, at the earliest possible date, the President should—

(1) request the advice and consent of the Senate to ratification (with a report containing any plans the President may have to negotiate supplemental verification procedures, or if the President believes it necessary, any understanding or reservation on the subject of verification which should be attached to the treaty) of the Threshold Test Ban and Peaceful Nuclear Explosions Treaties, signed in 1974 and 1976, respectively; and

(2) propose to the Soviet Union the immediate resumption of negotiations toward conclusion of a verifiable comprehensive test ban treaty.

In accordance with international law, the United States shall have no obligation to comply with any bilateral arms control agreement with the Soviet Union that the Soviet Union is violating.

SEC. 1003. REPORT BY THE CHAIRMAN OF THE JOINT CHIEFS OF STAFF ON UNITED STATES NON-COMPLIANCE WITH EXISTING STRATEGIC OFFENSIVE ARMS AGREEMENTS

(a) IN GENERAL.—The Chairman of the Joint Chiefs of Staff shall submit to Congress a report containing a detailed assessment of—

(1) the military consequences to the United States of a policy decision by the United States to discontinue compliance with the major provisions of

(3) Under average annual real growth projections in defense spending of 0 percent, 1 percent, 2 percent, and 3 percent, the percent of the annual defense budget in each year between fiscal year 1987 and fiscal year 1996 which would be consumed by increased United States strategic forces needed to counter the Soviet force expansions.

(4) The military effect on United States national security of the diversion the funds identified under paragraph (2) away from nonstrategic defense programs and to strategic programs to counter expanded Soviet strategic capabilities, including the military effect of such a diversion on the ability of United States conventional forces to meet the specific non-nuclear defense commitments of the United States as a member of the

North Atlantic Treaty Organization and under the 1960 Treaty of Mutual Cooperation and Security with Japan.

(5) The military implications for the United States of Soviet violations of offensive arms control agreements that have been determined.

(c) Report Requirements.—(1) The Chairman shall—

(A) include in the report required under subsection (a) the individual views of the other members of the Joint Chiefs of Staff; and

(B) submit such report in both classified and unclassified form.

(2) The report required by subsection (a) shall be submitted not later than December 19, 1986.

(e) Restriction on Obligation of Funds.—If the Chairman of the Joint Chiefs of Staff fails to submit the report required by subsection (a) before December 20, 1986, no funds may be obligated or expended, directly or indirectly, on or after such date by the Organization of the Joint Chiefs of Staff for any study or analysis to be conducted by a civilian contractor until such report is received by Congress.

SEC. 1004. SENSE OF CONGRESS EXPRESSING SUPPORT FOR A CENTRAL ROLE FOR NUCLEAR RISK REDUCTION CENTERS

(a) Congressional Statements.—The Congress—

(1) has expressed its prior support for the establishment of nuclear risk reduction centers; and

(2) supports the President's willingness to negotiate an agreement with the Soviet Union to establish such centers in each nation.

(b) Sense of Congress.—It is the sense of Congress that if an agreement on nuclear risk reduction centers is signed, the United States center should—

(1) be assigned the responsibility to serve as the center of activity for United States risk reduction activities under the agreement; and

(2) make recommendations to the Assistant to the President for National Security Affairs regarding additional risk reduction arrangements that might be proposed to the Soviet Union.

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d. Department of Defense Authorization Act, 1986

Partial text of Public Law 99-145 [S. 1160], 99 Stat. 583, approved November 8, 1985; as amended by Public Law 99-190 [H.J. Res. 465]; 99 Stat. 1185, approved December 19, 1985; and by Public Law 100-456 [H.R. 4481], 102 Stat. 1918, approved September 29, 1988

AN ACT To authorize appropriations for military functions of the Department of Defense and to prescribe military personnel levels for the Department of Defense for fiscal year 1986, to revise and improve military compensation programs, to improve defense procurement procedures, to authorize appropriations for fiscal year 1986 for national security programs of the Department of Energy, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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TITLE X—MATTERS RELATING TO ARMS CONTROL

SEC. 1001. POLICY ON COMPLIANCE WITH EXISTING STRATEGIC OFFENSIVE ARMS AGREEMENTS

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the United States should vigorously pursue with the Soviet Union the resolution of concerns of the United States over Soviet compliance with existing strategic arms control agreements and should seek corrective actions through confidential diplomatic channels, including, if appropriate, the Standing Consultative Commission and the Nuclear and Space Arms negotiations;

(2) the Soviet Union should take positive steps to resolve the compliance concerns of the United States about existing strategic offensive arms agreements in order to maintain the integrity of those agreements and to strengthen the positive environment necessary for the successful negotiation of a new strategic offensive arms agreement;

(3) the United States should continue, through December 31, 1986, to refrain from undercutting the provisions of existing strategic offensive arms agreements—

(A)(i) to the extent that the Soviet Union refrains from undercutting those provisions; and

(ii) if the Soviet Union actively pursues arms reduction agreements in the Nuclear and Space Arms negotiations; or

(B) until a new strategic offensive arms agreement between the United States and the Soviet Union is concluded;

(4) the President—

(A) should carefully consider the impact of any change in the current policy of the United States regarding existing strategic offensive arms agreements on the long-term security interests of the United States and its allies; and

(B) should consult with Congress before making any change in that policy; and

(5) any decision by the President to continue the existing United States no-undercut policy beyond December 31, 1986, should be a matter for consultation between the President and Congress and for subsequent review and debate by Congress.

(b) REQUIREMENT FOR REPORT.—Not later than February 1, 1986, the President shall submit to Congress a report containing the following:

(1) A range of projections and comparisons, on a year-by-year basis, of United States and Soviet strategic weapons dismantlements that would be required over the next five years if the United States and the Soviet Union were to adhere to a policy of not undercutting existing strategic arms control agreements.

(2) A range of projections and comparisons, on a year-by-year basis, of likely United States and Soviet strategic offensive force inventories over the next five years assuming a termination at the end of 1985 in the current no-undercut policy.

(3) An assessment of the possible Soviet political, military, and negotiating responses to the termination of the United States no-undercut policy.

(4) Recommendations regarding the future of United States interim restraint policy.

(c) PROPOSAL OF MEASURES.—If the President finds and reports to Congress that—

(1) the Soviet Union has violated the provisions of any strategic arms agreement; and

(2) such violations impair or threaten the security of the United States,

the President may propose to Congress such measures as he considers necessary to protect the security of the United States.

(d) SCOPE OF POLICY.—Nothing in this section shall be construed—

(1) to restrain or inhibit the constitutional powers of the President;

(2) to endorse unilateral United States compliance with existing strategic arms agreements;

(3) as prohibiting the United States from carrying out proportionate responses to Soviet undercutting of strategic arms provisions;

(4) as prohibiting or delaying the development, flight testing, or deployment of the small intercontinental ballistic missile (SICM)[1] as authorized by law; or

(5) as establishing a precedent to continue the no-undercut policy beyond December 31, 1986.

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[1] Should read "SICBM".

SEC. 1002.[2] ANNUAL REPORT ON SOVIET COMPLIANCE WITH ARMS CONTROL COMMITMENTS

(a) ANNUAL REPORT.—Not later than December 1 of each year, the President shall submit to Congress a report containing the findings of the President with respect to the compliance of the Soviet Union with its arms control commitments and any additional information necessary to keep Congress currently informed.

(b) MATTERS TO BE INCLUDED.—The President shall specifically include in each such report the following:

(1) A summary of the current status of all arms control agreements in effect between the United States and the Soviet Union.

(2) An assessment of all violations by the Soviet Union of such agreements and the risks such violations pose to the national security of the United States and its allies.

(3) A net assessment of the aggregate military significance of all such violations.

(4) A statement of the compliance policy of the United States with respect to violations by the Soviet Union of those agreements.

(5) What actions, if any, the President has taken or proposes to take to bring the Soviet Union into compliance with its commitments under those agreements.

(c) CONTINGENT ADDITIONAL INFORMATION.—If the President in any second consecutive report submitted to Congress under this section reports that the Soviet Union is not in full compliance with all arms control agreements between the United States and the Soviet Union, the President shall include in such report an assessment of what actions are necessary to compensate for such violations.

(d) CLASSIFICATION OF REPORTS.—Each report under this section shall be submitted in both classified and unclassified versions.

SEC. 1003. STUDY OF ARMS CONTROL VERIFICATION CAPABILITIES

(a) INTERAGENCY STUDY.—The President shall provide for an interagency study with the purpose of determining possible avenues for cooperation between the United States and the Soviet Union in the development of capabilities not subject to national security restrictions for verification of compliance with arms control agreements.

(1) limited exchanges of data and scientific personnel; and

(2) the conduct of a joint technological effort in the area of seismic monitoring.

(b) AGENCIES INCLUDED.—The President shall provide for participation in the interagency study under subsection (a) by—

(1) the Secretary of State;

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[2] Sec. 905(a) of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456, 102 Stat. 1918 at 2032) amended and restated sec. 1002. It formerly read as follows:

"Not later than December 1, 1985, and not later than December 1 of each following year, the President shall submit to the Congress a report (in both classified and unclassified versions) containing, with respect to the compliance of the Soviet Union with its arms control commitments, the findings of the President and any additional information necessary to keep the Congress currently informed."

As stated by sec. 905(b) of Public Law 100-456, this amendment "shall take effect beginning with the report to be submitted under section 1002 of the Department of Defense Authorization Act, 1986, in 1990."

(2) the Secretary of Defense;

(3) the Secretary of Energy;

(4) the Director of the Arms Control and Disarmament Agency;

(5) the heads of appropriate intelligence agencies;

(6) the Joint Chiefs of Staff; and

(7) such other officers as the President may designate.

(c) Report.—(1) The President shall submit to Congress a report on the results of the interagency study.

(2) The report shall be submitted in both a classified and unclassified version.

(3) The report shall be submitted not later than May 1, 1986.

SEC. 1004. SENSE OF CONGRESS RELATING TO UNITED STATES-SOVIET NEGOTIATIONS ON REDUCTION IN NUCLEAR ARMS

It is the sense of the Congress—

(1) that the President of the United States and the General Secretary of the Communist Party of the Union of Soviet Socialist Republics should be commended for their willingness to meet to discuss major issues in United States-Soviet relations; and

(2) that following thorough preparation, such meetings should be used to work for the realization of mutual, equitable, and verifiable reductions in nuclear arms.

SEC. 1005. PILOT PROGRAM FOR EXCHANGE OF CERTAIN HIGH-RANKING MILITARY AND CIVILIAN PERSONNEL WITH THE SOVIET UNION

(a) Submission of Plan.—The Secretary of Defense shall submit to the appropriate committees of Congress a plan for the establishment and operation during fiscal year 1986 of a pilot program for the exchange of visits between—

(1) high-ranking officers of the Armed Forces of the United States and high-ranking civilian officials of the Department of Defense; and

(2) corresponding high-ranking officers and officials of the Soviet Union.

(b) Requirements of Plan.—Such plan shall include—

(1) specific identification of the United States officers and officials selected for participation in the program;

(2) the proposed length of the exchange visits with the Soviet Union;

(3) a description of the specific goals of each exchange visit;

(4) an estimate of the cost to the United States of participation in each visit;

(5) a description of any special actions that will be taken to protect classified information of the United States during any visit to the United States by officers or officials of the Soviet Union who are participating in the program; and

(6) any other details of the program that the Secretary considers appropriate.

(c) Availability of Funds.—Of the funds appropriated pursuant to section 301(a), the sum of $100,000 shall be available only for costs required for participation by the United States in the pilot program described in subsection (a), including costs for travel, subsistence, and other support expenses.

(d) Deadline for Plan.—The Secretary shall submit the plan required by subsection (a) not later than December 1, 1985.

SEC. 1006. REPORT ON NUCLEAR WINTER FINDINGS AND POLICY IMPLICATIONS

(a) Continued Participation in Interagency Studies.—Notwithstanding any limitation in any other provision of this Act, the Secretary of Defense, in accordance with section 1107(a) of the Department of Defense Authorization Act, 1985 (Public Law 98-525), shall participate in any comprehensive interagency study conducted on the atmospheric, climatic, environmental, and biological consequences of nuclear war and the implications that such consequences have for the nuclear weapons strategy and policy, the arms control policy, and the civil defense policy of the United States.

(b) Report on Nuclear Winter Findings.—Not later than March 1, 1986, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives an unclassified report suitable for release to the public, together with classified addenda (if required), concerning the subject described in subsection (a). The Secretary shall include in such report the following:

(1) A detailed review and assessment of the findings in the current body of domestic and international scientific literature on the atmospheric, climatic, environmental, and biological consequences of nuclear explosions and nuclear exchanges.

(2) A thorough evaluation of the implications that such findings have on—

(A) the nuclear weapons policy of the United States, especially with regard to strategy, targeting, planning, command, control, procurement, and deployment;

(B) the nuclear arms control policy of the United States; and

(C) the civil defense policy of the United States.

(3) A discussion of the manner in which the results of such evaluation of policy implications will be incorporated into the nuclear weapons, arms control, and civil defense policies of the United States.

(4) An analysis of the extent to which current scientific findings on the consequences of nuclear explosions are being studied, disseminated, and used in the Soviet Union.

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e. Department of Defense Authorization Act, 1985

Partial Text of Public Law 98-525 [H.R. 5167], 98 Stat. 2492, approved October 19, 1984; as amended by Public Law 99-145 [Department of Defense Authorization Act, 1986; S. 1160], 99 Stat. 619, approved November 8, 1985; and by Public Law 99-661 [National Defense Authorization Act, Fiscal Year 1987, S. 2368] 100 Stat. 3816, approved November 14, 1986

AN ACT To authorize appropriations for fiscal year 1985 for the military functions of the Department of Defense, to prescribe military personnel levels for that fiscal year for the Department of Defense, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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TITLE XI—MATTERS RELATING TO ARMS CONTROL

REPORT ON STRATEGIC NUCLEAR SUBMARINE FORCE

Sec. 1101. Not later than April 1, 1985, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the survivability of the United States strategic nuclear ballistic missile submarine force. The report shall address whether there are grounds for adjusting, in short or long-range terms, strategic force plans of the United States based on any vulnerability or potential vulnerability of such force. The report shall also examine the feasibility and desirability of enhancing the survivability of such force through measures that would affect antisubmarine warfare, including the nature of the patrols and the rules of engagement of attack submarines and the nature of the patrols and the rules of engagement of ballistic missile submarines.

ANNUAL REPORT ON STRATEGIC DEFENSE PROGRAMS

Sec. 1102. [1] * * * [Repealed—1987]

REPORT ON THEATER NUCLEAR WEAPONS AND FORCE STRUCTURE

Sec. 1103. Not later than January 19, 1985, the President shall submit to Congress a report setting forth reasons why the United States should or should not initiate a long-term program for the renovation of the North Atlantic Treaty Organization (NATO) nuclear deterrent in a manner designed to reduce pressures for early first use of tactical nuclear weapons and to substantially reduce the theater nuclear arsenal to types and numbers of weapons whose characteristics make for a more stable and credible force.

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[1] Sec. 1102 was repealed by sec. 231(b) of Public Law 100-180 (100 Stat 1019).

The report (in addition to any other matter covered) should specifically address the following issues:

(1) Whether NATO should not eliminate its reliance on short-range battlefield nuclear weapons (such as the atomic demolition bomb and 155-millimeter and 8-inch nuclear artillery rounds), the exposure of which to early loss from enemy action promotes pressures for early use.

(2) Whether NATO should not refurbish its nuclear deterrent by designing and deploying specific dedicated nuclear launchers of a range which permits the coverage of all potential targets from locations in the rear of the European NATO territory in the territory of the Warsaw Pact short of the territory of the Soviet Union, thereby reducing pressure from enemy action for early first use of nuclear weapons.

(3) Whether NATO should not, as a consequence of a change in policy described in paragraph (2), eliminate its inventory of dual-capable nuclear/conventional weapons in order to allow early use of artillery, aircraft, and surface-to-surface missiles for conventional missions rather than causing them to be withheld for possible nuclear use.existing strategic offensive arms limitations agreements (including central numerical sublimits on strategic nuclear delivery vehicles in the SALT II accord) would have on the security of the United States; and

(2) the likely military responses of the Soviet Union to such a policy decision.

(b) Matters To Be Considered.—The assessment required by subsection (a) shall focus on what the likely Soviet military responses would be during the period between 1987 and 1996. In making such assessment, the Chairman shall specifically consider the following:

(1) The effect on the ability of United States strategic forces to accomplish their nuclear deterrent mission (including the effect on the survivability of United States strategic forces and on the ability of United States strategic forces to achieve required damage expectancies against Soviet targets) of any expansion of Soviet military capabilities undertaken in response to a United States decision to abandon compliance with existing strategic offensive arms agreements.

(2) The additional cost to the United States, above currently projected military expenditures for those periods for which such budget projections are available, of research, development, production, deployment, and annual operations and support for any additional strategic forces required to counter any expansion in Soviet military capabilities undertaken in response to a United States decision to abandon compliance with existing strategic offensive arms agreements.

(4) Whether NATO should not place control and operation of tactical nuclear weapons in a single specialized command established for that purpose so that all other NATO force elements could be free to concentrate on pursuing conventional military missions with maximum efficiency.

REPORT ON WITHDRAWAL OF TACTICAL NUCLEAR WARHEADS FROM EUROPE

Sec. 1104. The President shall submit a report to Congress not later than 90 days after the final decision is made (based upon the recommendations of the Supreme Allied Commander, Europe) regarding the net reduction to be made by the United States in the number of tactical nuclear warheads in the territory of North Atlantic Treaty Organization European member nations pursuant to the decision of the Nuclear Planning Group of the North Atlantic Treaty Organization of October 17, 1983. The report shall—

(1) specify the types of warheads to be withdrawn in accordance with that decision, the number of each such warhead to be withdrawn, the schedule for the withdrawal, and the rationale for the selection of the particular warheads to be withdrawn; and

(2) any changes in force structure to be made resulting from the changes in the tactical nuclear warheads positioned in Europe.

REPORT ON UNITED STATES COUNTERFORCE CAPABILITY

Sec. 1105. (a) Not later than April 15, 1985, the President shall submit to Congress a report discussing the required strategic counterforce capability consistent with existing United States policy.

(b) The report under subsection (a) shall be developed taking into consideration current and proposed United States intercontinental ballistic missiles having an accuracy on the order of the MX missile (including specifically the MX missile, the D-5 Trident missile, and the small single-warhead missile) intended to be procured for United States strategic force modernization and the rationale for the overall counterforce capability that would be attained as a cumulative result of those procurements. The President shall include in the report a specific definition of what United States counterforce capability would constitute a so-called "first-strike capability" against the Soviet Union.

(c) The report shall also include an assessment of corresponding Soviet counterforce and first-strike capabilities.

TRANSMITTAL TO CONGRESS OF REPORT ON SOVIET COMPLIANCE WITH ARMS CONTROL AGREEMENTS

Sec. 1106. (a) Not later than 30 days after the date of the enactment of this Act, the President shall transmit to Congress the text of the report by the General Advisory Committee on Arms Control of the arms Control and Disarmament Agency entitled "A Quarter Century of Soviet Compliance Practices Under Arms Control Commitments: 1958–1983 (U)", dated November 1983. If the President determines that that report contains material the release of which to Congress would compromise United States intelligence sources, methods of intelligence gathering, or the national security of the United States, the President may furnish the text of such report after deleting or modifying such compromising material.

(b) Not later than 60 days after the date of the enactment of this Act, the President shall transmit to Congress an unclassified version of the report described in subsection (a).

REPORT ON NUCLEAR WINTER FINDINGS AND POLICY IMPLICATIONS

Sec. 1107. (a) The Secretary of Defense shall participate in any comprehensive study of the atmospheric, climatic, environmental, and biological consequences of nuclear war and the implications that such consequences have for the nuclear weapons strategy and policy, the arms control policy, and the civil defense policy of the United States.

(b) Not later than March 1, 1985, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives an unclassified report suitable for release to the public, together with classified addenda (if required), concerning the subject described in subsection (a). The Secretary shall include in such report the following:

(1) A detailed review and assessment of the current scientific studies and findings on the atmospheric, climatic, environmental, and biological consequences of nuclear explosions and nuclear exchanges.

(2) A thorough evaluation of the implications that such studies and findings have on (A) the nuclear weapons policy of the United States, especially with regard to strategy, targeting, planning, command, control, procurement, and deployment, (B) the nuclear arms control policy of the United States, and (C) the civil defense policy of the United States.

(3) A discussion of the manner in which the results of such evaluation of policy implications will be incorporated into the nuclear weapons, arms control, and civil defense policies of the United States.

(4) An analysis of the extent to which current scientific findings on the consequences of nuclear explosions are being studied, disseminated, and used in the Soviet Union.

SENSE OF THE CONGRESS RELATING TO THE ESTABLISHMENT OF NUCLEAR RISK REDUCTION CENTERS IN THE UNITED STATES AND THE SOVIET UNION

Sec. 1108. (a) The Congress makes the following findings:

(1) An increasing number of scenarios (including misjudgment, miscalculation, misunderstanding, possession of nuclear arms by a terrorist group or a State sponsored threat) could precipitate a sudden increase in tensions and the risk of a nuclear confrontation between the United States and the Soviet Union, situations that neither side anticipates, intends, or desires.

(2) There has been a steady proliferation throughout the world of the knowledge, equipment, and materials necessary to fabricate nuclear weapons.

(3) Such proliferation of nuclear capabilities suggests an increasing potential for nuclear terrorism, the cumulative risk of which, considering potential terrorist groups and other threats over a period of years into the future, may be great.

(4) Current communications links represent equipment of the 1960's and as such are relatively outdated and limited in their capabilities.

(5) The President, responding to congressional initiatives, proposed the establishment of additional and improved communications links between the United States and the Soviet Union and other measures to reduce the risk of nuclear confrontation, and has initiated discussions at a working level with the Soviet Union pertaining to—

(A) the addition of a high speed facsimile capability to the direct communication link (hotline);

(B) the creation of a joint military communications link between the Department of Defense and the Soviet Defense Ministry; and

(C) the establishment by the Governments of the United States and Soviet Union of high-rate data communication links between each nation and its embassy in the other nation's capital.

(6) The establishment of nuclear risk reduction centers in Washington and Moscow could reduce the risk of increased tensions and nuclear confrontations, thereby enhancing the security of both the United States and the Soviet Union.

(7) These centers could serve a variety of functions, including—

(A) discussing procedures to be followed in the event of possible incidents involving the use of nuclear weapons by third parties;

(B) maintaining close contact during nuclear threats or incidents precipitated by third parties;

(C) exchanging information on a voluntary basis concerning events that might lead to the acquisition of nuclear weapons, materials, or equipment by subnational groups;

(D) exchanging information about United States-Union of Soviet Socialist Republics military activities which might be misunderstood by the other party during periods of mounting tensions; and

(E) establishing a dialog about nuclear doctrines, forces, and activities.

(8) The continuing and routine implementation of these various activities could be facilitated by the establishment within each Government of facilities, organizations, and bureaucratic relationships designated for these purposes, such as risk reduction centers, and by the appointment of individuals responsible to the respective head of state with responsibilities to manage such centers.

(b) The Congress—

(1) commends the President for his announced support for the confidence building measures described in subsection (a) and his initiation of negotiations which have occurred; and

(2) urges the President to pursue negotiations on these measures with the Government of the Soviet Union and to add to these negotiations the establishment of nuclear risk reduction

centers in both nations to be operated under the direction of the appropriate diplomatic and defense authorities.

SENSE OF CONGRESS REGARDING A REPORT TO CONGRESS ON CERTAIN VERIFICATION PROGRAMS RELATING TO BIOLOGICAL AND CHEMICAL WEAPONS

Sec. 1109. (a) The Congress makes the following findings:

(1) The Iran-Iraq war has recently demonstrated a marked increase in the proliferation of technology on the production of chemical weapons and an increase in the willingness of nations to use such weapons in armed conflict.

(2) The President's Report to Congress on Soviet Arms Control Noncompliance concluded that the Soviet Union has refused to respond adequately to United States concerns about the transfer or use by the Soviet Union of lethal chemical warfare agents in Laos, Kampuchea, and Afghanistan and United States concerns about adherence by the Soviet Union to the 1972 Biological and Toxin Weapons Convention.

(3) Experts at the recent annual meeting of the American Association for the Advancement of Science and at the First World Congress on New Compounds in Biological and Chemical Warfare held at Ghent, Belgium, emphasized that better verification of the use of chemical weapons and of the development of biological and toxin weapons was essential to strengthen the 1972 Biological and Toxin Weapons Convention and the Geneva Protocol of 1925.

(4) The 1972 Biological and Toxin Weapons Convention is scheduled for review in 1985.

(5) The United States is anxious to promote and strengthen adherence to the Geneva Protocol of 1925 and the 1972 Biological and Chemical Weapons Convention and is vigorously pursuing a comprehensive, verifiable, international agreement to ban chemical weapons.

(6) Any comprehensive agreement intended to ban the production, storage, and transfer of chemical weapons must provide for effective measures of verification and enforcement and in order for the 1972 Biological and Toxin Weapons Convention to be effective, compliance with the terms of the convention must be verifiable; and

(7) The Congress must be well informed regarding existing and planned programs for verifying compliance with the 1972 Biological and Toxin Weapons Convention and with a chemical weapons ban agreement.

(b) It is the sense of Congress that the President should submit to the Committee on Foreign Relations and the Select Committee on Intelligence of the Senate and to the Committee on Foreign Affairs and the Permanent Select Committee on Intelligence of the House of Representatives a comprehensive report identifying and evaluating—

(1) existing and planned programs to support verification requirements necessary to determine compliance with the 1972 Biological and Toxin Weapons Convention and a chemical weapons ban; and

(2) the budget resources necessary to support verification requirements necessary to determine compliance with the 1972 Biological and Toxin Weapons Convention and a chemical weapons ban.

(c) The President is requested to submit the report referred to in subsection (b) to the committees referred to in such subsection not later than March 15, 1985.

SENSE OF CONGRESS EXPRESSING SUPPORT FOR UNITED STATES TO PURSUE OUTSTANDING ARMS CONTROL COMPLIANCE

Sec. 1110. (a) The Congress makes the following findings:

(1) It is a vital security objective of the United States to limit the Soviet nuclear threat against the United States and its allies.

(2) The President has declared that "as for existing strategic arms agreements, we will refrain from actions which undercut them so long as the Soviet Union shows equal restraint".

(3) The United States has legitimate concerns about certain Soviet actions and behavior relevant to limitations and other provisions of existing strategic arms agreements.

(4) The President has declared that "the United States will continue to press compliance issues with the Soviet Union through diplomatic channels, and to insist upon explanations, clarifications, and corrective actions".

(5) The President has also declared that "the United States is continuing to carry out its obligations under relevant agreements".

(6) It would be detrimental to the security interests of the United States and its allies and to international peace and stability for the last remaining limitations on strategic offensive nuclear weapons to break down or lapse before replacement by a new strategic arms control agreement between the United States and the Soviet Union.

(7) The continuation of existing restraints on strategic offensive nuclear arms would provide an atmosphere more conducive to achieving an agreement significantly reducing the levels of nuclear arms.

(8) The Soviet Union has not agreed to a date for resumption of the nuclear arms talks in Geneva, and it is incumbent on the Soviet Union to return to the negotiating table.

(9) A termination of existing restraints on strategic offensive nuclear weapons could make the resumption of negotiations more difficult.

(10) Both sides have, to date, abided by important numerical and other limits contained in existing strategic offensive arms agreements, including dismantling operational missile-firing submarines and remaining within the ceilings on multiple-warhead missile launchers and other related limits.

(11) It is in the interest of the United States and its allies for the Soviet Union to continue to dismantle older missile-firing submarines as new ones are deployed and to continue to remain at or below a level of 820 launchers of intercontinental ballistic missiles with multiple independently targeted reentry

vehicles, 1,200 launchers of intercontinental ballistic missiles with multiple independently targeted reentry vehicles and submarine launched ballistic missiles, and 1,320 launchers of intercontinental ballistic missiles with multiple independently targeted reentry vehicles and submarine launched ballistic missiles and heavy bombers equipped with air launched cruise missiles, and other related limits in existing strategic offensive arms agreements.

(b) In view of these findings, it is the sense of Congress that—

(1) the United States should vigorously pursue with the Soviet Union the resolution of concerns over compliance with existing strategic and other arms control agreements and should seek corrective actions, where appropriate, through the Standing Consultative Commission and other available diplomatic channels;

(2) The United States should, through December 31, 1985, continue to pursue its stated policy to refrain from undercutting the provisions of existing strategic offensive arms agreements so long as the Soviet Union refrains from undercutting the provisions of those agreements, or until a new strategic offensive arms agreement is concluded;

(3) the President should provide a report to the Congress in both classified and unclassified forms reflecting additional findings regarding Soviet adherence to such a no-undercut policy, by February 15, 1985;

(4) the President shall provide to Congress on or before June 1, 1985, a report that—

(A) describes the implications of the United States Ship Alaska's sea trials, both with and without the concurrent dismantling of older launchers of missiles with multiple independently targeted reentry vehicles with multiple independently targeted reentry vehicles, for the current United States no-undercut policy and strategic arms and United States security interests more generally;

(B) assesses possible Soviet political, military, and negotiating responses to the termination of the United States no-undercut policy;

(C) reviews and assesses Soviet activities with respect to existing strategic offensive arms agreements; and

(D) makes recommendations regarding the future of United States interim restraint policy; and

(5) the President should carefully consider the impact of any change to this current policy regarding existing strategic offensive arms agreements on the long-term security interests of the United States and its allies and should consult with the Congress before making any change in current policy.

POLICY ON THE STATUS OF CERTAIN TREATIES TO PREVENT NUCLEAR TESTING

Sec. 1111. (a) The Senate makes the following findings:

(1) The United States is committed in the Limited Test Ban Treaty of 1963 and in the Non-Proliferation Treaty of 1968 to

seek to achieve the discontinuance of all test explosions of nuclear weapons for all time.

(2) A comprehensive test ban treaty would promote the security of the United States by constraining the United States-Soviet nuclear arms competition and by strengthening efforts to prevent the proliferation of nuclear weapons.

(3) The Threshold Test Ban Treaty was signed in 1974 and the Peaceful Nuclear Explosions Treaty was signed in 1976, and both have yet to be considered by the full Senate for its advice and consent to ratification.

(4) The entry into force of the Peaceful Nuclear Explosions Treaty and the Threshold Test Ban Treaty will ensure full implementation of significant new verification procedures and so make completion of a comprehensive test ban treaty more probable.

(5) A comprehensive test ban treaty must be adequately verifiable, and significant progress has been made in methods for detection of underground nuclear explosions by seismological and other means.

(6) At present, negotiations are not being pursued by the United States and the Soviet Union toward completion of a comprehensive test ban treaty.

(7) The past five administrations have supported the achievement of a comprehensive test ban treaty.

(b) It is the sense of the Senate that at the earliest possible date, the President should—

(1) request advice and consent of the Senate to ratification (with a report containing any plans the President may have to negotiate supplemental verification procedures, or if the President believes it necessary, any understanding or reservation on the subject of verification which should be attached to the treaty) of the Threshold Test Ban and Peaceful Nuclear Explosions Treaties, signed in 1974 and 1976, respectively; and

(2) propose to the Soviet Union the immediate resumption of negotiations toward conclusion of a verifiable comprehensive test ban treaty.

(c) In accordance with international law, the United States shall have no obligation to comply with any bilateral arms control agreement with the Soviet Union that the Soviet Union is violating.

* * * * * * *

5. Arms Control and Disarmament Agency Appropriations, 1989

Partial text of Public Law 100-459 [H.R. 4782], 102 Stat. 2186, approved October 1, 1988

AN ACT Making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1989, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1989, and for other purposes, namely:

* * * * * * *

TITLE V—RELATED AGENCIES

* * * * * * *

ARMS CONTROL AND DISARMAMENT AGENCY

ARMS CONTROL AND DISARMAMENT ACTIVITIES

For necessary expenses, not otherwise provided for, for arms control and disarmament activities, including not to exceed $55,000 for official reception and representation expenses, authorized by the Act of September 26, 1961, as amended (22 U.S.C. 2551 et seq.), $31,030,000.

* * * * * * *

6. Executive Order 11850, April 8, 1975, 40 F.R. 16187

RENUNCIATION OF CERTAIN USES IN WAR OF CHEMICAL HERBICIDES AND RIOT CONTROL AGENTS [1]

The United States renounces, as a matter of national policy, first use of herbicides in war except use, under regulations applicable to their domestic use, for control of vegetation within U.S. bases and installations or around their immediate defensive perimeters, and first use of riot control agents in war except in defensive military modes to save lives such as:

(a) Use of riot control agents in riot control situations in areas under direct and distinct U.S. military control, to include controlling rioting prisoners of war.

(b) Use of riot control agents in situations in which civilians are used to mask or screen attacks and civilian casualties can be reduced or avoided.

(c) Use of riot control agents in rescue missions in remotely isolated areas, of downed aircrews and passengers, and escaping prisoners.

(d) Use of riot control agents in rear echelon areas outside the zone of immediate combat to protect convoys from civil disturbances, terrorists and paramilitary organizations.

I have determined that the provisions and procedures prescribed by this Order are necessary to ensure proper implementation and observance of such national policy.

Now, Therefore, by virtue of the authority vested in me as President of the United States of America by the Constitution and laws of the United States and as Commander-in-Chief of the Armed Forces of the United States, it is hereby ordered as follows:

Section 1. The Secretary of Defense shall take all necessary measures to ensure that the use by the Armed Forces of the United States of any riot control agents and chemical herbicides in war is prohibited unless such use has Presidential approval, in advance.

Sec. 2. The Secretary of Defense shall prescribe the rules and regulations he deems necessary to ensure that the national policy herein announced shall be observed by the Armed Forces of the United States.

NOTE.—Former Executive Order 11902 regarding Procedures for an Export Licensing Policy as to Nuclear Materials and Equipment was repealed by Executive Order 12058. For text of Executive Order 12058, see vol. IV, sec. L.

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[1] For additional material concerning this subject, see texts of the Geneva Protocol of 1925 and the Biological Weapons Convention, vol. V, sec. F.

G. WAR POWERS, COLLECTIVE SECURITY, AND RELATED MATERIAL

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1. War Powers

a. War Powers Resolution

Public Law 93-148 [H.J. Res. 542], 87 Stat. 555, 50 U.S.C. 1541-1548, passed over President's veto November 7, 1973

JOINT RESOLUTION Concerning the war powers of Congress and the President.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1.[1] This joint resolution may be cited as the "War Powers Resolution".

PURPOSE AND POLICY

Sec. 2. (a) It is the purpose of this joint resolution to fulfill the intent of the framers of the Constitution of the United States and insure that the collective judgment of both the Congress and the President will apply to the introduction of United States Armed Forces into hostilities, or into situations where imminent involvement in hostilities is clearly indicated by the circumstances, and to the continued use of such forces in hostilities or in such situations.

(b) Under article I, section 8, of the Constitution, it is specifically provided that the Congress shall have the power to make all laws necessary and proper for carrying into execution, not only its own powers but also all other powers vested by the Constitution in the Government of the United States, or in any department or officer thereof.

(c) The constitutional powers of the President as Commander-in-Chief to introduce United States Armed Forces into hostilities, or into situations where imminent involvement in hostilities is clearly indicated by the circumstances, are exercised only pursuant to (1) a declaration of war, (2) specific statutory authorization, or (3) a national emergency created by attack upon the United States, its territories or possessions, or its armed forces.

CONSULTATION

Sec. 3. The President in every possible instance shall consult with Congress before introducing United States Armed Forces into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances, and after every such introduction shall consult regularly with the Congress until United States Armed Forces are no longer engaged in hostilities or have been removed from such situations.

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[1] 50 U.S.C. 1541.

REPORTING

Sec. 4. (a) In the absence of a declaration of war, in any case in which United States Armed Forces are introduced—

(1) into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances;

(2) into the territory, airspace of waters of a foreign nation, while equipped for combat, except for deployments which relate solely to supply, replacement, repair, or training of such forces; or

(3) in numbers which substantially enlarge United States Armed Forces equipped for combat already located in a foreign nation;

the President shall submit within 48 hours to the Speaker of the House of Representatives and to the President pro tempore of the Senate a report, in writing, setting forth—

(A) the circumstances necessitating the introduction of United States Armed Forces;

(B) the constitutional and legislative authority under which such introduction took place; and

(C) the estimated scope and duration of the hostilities or involvement.

(b) The President shall provide such other information as the Congress may request in the fulfillment of its constitutional responsibilities with respect to committing the Nation to war and to the use of United States Armed Forces abroad.

(c) Whenever United States Armed Forces are introduced into hostilities or into any situation described in subsection (a) of this section, the President shall, so long as such armed forces continue to be engaged in such hostilities or situation, report to the Congress periodically on the status of such hostilities or situation as well as on the scope and duration of such hostilities or situation, but in no event shall he report to the Congress less often than once every six months.

CONGRESSIONAL ACTION [2]

Sec. 5. (a) Each report submitted pursuant to section 4(a)(1) shall be transmitted to the Speaker of the House of Representatives and to the President pro tempore of the Senate on the same calendar day. Each report so transmitted shall be referred to the Committee on Foreign Affairs of the House of Representatives and to the Committee on Foreign Relations of the Senate for appropriate action. If, when the report is transmitted, the Congress has adjourned sine die or has adjourned for any period in excess of three calendar days, the Speaker of the House of Representatives and the President pro tempore of the Senate, if they deem it advisable (or if petitioned by at least 30 percent of the membership of their respective Houses) shall jointly request the President to convene Congress in order that it may consider the report and take appropriate action pursuant to this section.

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[2] See also sec. 1013 of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98-164, 97 Stat. 1062) which read as follows:

"EXPEDITED PROCEDURES FOR CERTAIN JOINT RESOLUTION AND BILLS

"Sec. 1013. Any joint resolution or bill introduced in either House which requires the removal of United States Armed Forces engaged in hostilities outside the territory of the United States, its possessions and territories, without a declaration of war or specific statutory authorization shall be considered in accordance with the procedures of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976, except that any such resolution or bill shall be amendable. If such a joint resolution or bill should be vetoed by the President, the time for debate in consideration of the veto message on such measure shall be limited to twenty hours in the Senate and in the House shall be determined in accordance with the Rules of the House."

For text of sec. 601(b) of the International Security Assistance and Arms Export Control Act of 1976, see vol. I, page 476.

(b) Within sixty calendar days after a report is submitted or is required to be submitted pursuant to section 4(a)(1), whichever is earlier, the President shall terminate any use of United States Armed Forces with respect to which such report was submitted (or required to be submitted), unless the Congress (1) has declared war or has enacted a specific authorization for such use of United States Armed Forces, (2) has extended by law such sixty-day period, or (3) is physically unable to meet as a result of an armed attack upon the United States. Such sixty-day period shall be extended for not more than an additional thirty days if the President determines and certifies to the Congress in writing that unavoidable military necessity respecting the safety of United States Armed Forces requires the continued use of such armed forces in the course of bringing about a prompt removal of such forces.

(c) Notwithstanding subsection (b), at any time that United States Armed Forces are engaged in hostilities outside the territory of the United States, its possessions and territories without a declaration of war or specific statutory authorization, such forces shall be removed by the President if the Congress so directs by concurrent resolution.

CONGRESSIONAL PRIORITY PROCEDURES FOR JOINT RESOLUTION OR BILL [2]

Sec. 6. (a) Any joint resolution or bill introduced pursuant to section 5(b) at least thirty calendar days before the expiration of the sixty-day period specified in such section, shall be referred to the Committee on Foreign Affairs of the House of Representatives or the Committee on Foreign Relations of the Senate, as the case may be, and such committee shall report one such joint resolution or bill, together with its recommendations, not later than twenty-four calendar days before the expiration of the sixty-day period specified in such section, unless such House shall otherwise determine by the yeas and nays.

(b) Any joint resolution or bill so reported shall become the pending business of the House in question (in the case of the Senate the time for debate shall be equally divided between the proponents and the opponents), and shall be voted on within three calendar days thereafter, unless such House shall otherwise determine by yeas and nays.

(c) Such a joint resolution or bill passed by one House shall be referred to the committee of the other House named in subsection (a) and shall be reported out not later than fourteen calendar days before the expiration of the sixty-day period specified in section 5(b). The joint resolution or bill so reported shall become the pending business of the House in question and shall be voted on within three calendar days after it has been reported, unless such House shall otherwise determine by yeas and nays.

(d) In the case of any disagreement between the two Houses of Congress with respect to a joint resolution or bill passed by both Houses, conferees shall be promptly appointed and the committee of conference shall make and file a report with respect to such resolution or bill not later than four calendar days before the expiration of the sixty-day period specified in section 5(b). In the event the conferees are unable to agree within 48 hours, they shall report back to their respective House in disagreement. Notwithstanding any rule in either House concerning the printing of conference reports in the Record or concerning any delay in the consideration of such reports, such report shall be acted on by both Houses not later than the expiration of such sixty-day period.

CONGRESSIONAL PRIORITY PROCEDURES FOR CONCURRENT RESOLUTION

Sec. 7. (a) Any concurrent resolution introduced pursuant to section 5(c) shall be referred to the Committee on Foreign Affairs of the House of Representatives or the Committee on Foreign Relations of the Senate, as the case may be, and one such concurrent resolution shall be reported out by such committee together with its recommendations within fifteen calendar days, unless such House shall otherwise determine by the yeas and nays.

(b) Any concurrent resolution so reported shall become the pending business of the House in question (in the case of the Senate the time for debate shall be equally divided between the proponents and the opponents) and shall be voted on within three calendar days thereafter, unless such House shall otherwise determine by yeas and nays.

(c) Such a concurrent resolution passed by one House shall be referred to the committee of the other House named in subsection (a) and shall be reported out by such committee together with its recommendations within fifteen calendar days and shall thereupon become the pending business of such House and shall be voted upon within three calendar days, unless such House shall otherwise determine by yeas and nays.

(d) In the case of any disagreement between the two Houses of Congress with respect to a concurrent resolution passed by both Houses, conferees shall be promptly appointed and the committee of conference shall make and file a report with respect to such concurrent resolution within six calendar days after the legislation is referred to the committee of conference. Notwithstanding any rule in either House concerning the printing of conference reports in the Record or concerning any delay in the consideration of such reports, such report shall be acted on by both Houses not later than six calendar days after the conference report is filed. In the event the conferees are unable to agree within 48 hours, they shall report back to their respective Houses in disagreement.

INTERPRETATION OF JOINT RESOLUTION

Sec. 8. (a) Authority to introduce United States Armed Forces into hostilities or into situations wherein involvement in hostilities is clearly indicated by the circumstances shall not be inferred—

(1) from any provision of law (whether or not in effect before the date of the enactment of this joint resolution), including any provision contained in any appropriation Act, unless such provision specifically authorizes the introduction of United States Armed Forces into hostilities or into such situations and states that it is intended to constitute specific statutory authorization within the meaning of this joint resolution; or

(2) from any treaty heretofore or hereafter ratified unless such treaty is implemented by legislation specifically authorizing the introduction of United States Armed Forces into hostilities or into such situations and stating that it is intended to constitute specific statutory authorization within the meaning of this joint resolution.

(b) Nothing in this joint resolution shall be construed to require any further specific statutory authorization to permit members of United States Armed Forces to participate jointly with members of the armed forces of one or more foreign countries in the headquarters operations of high-level military commands which were established prior to the date of enactment of this joint resolution and pursuant to the United Nations Charter or any treaty ratified by the United States prior to such date.

(c) For purposes of this joint resolution, the term "introduction of United States Armed Forces" includes the assignment of members of such armed forces to command, coordinate, participate in the movement of, or accompany the regular or irregular military forces of any foreign country or government when such military forces are engaged, or there exists an imminent threat that such forces will become engaged, in hostilities.

(d) Nothing in this joint resolution—

(1) is intended to alter the constitutional authority of the Congress or of the President, or the provisions of existing treaties; or

(2) shall be construed as granting any authority to the President with respect to the introduction of United States Armed Forces into hostilities or into situations wherein involvement in hostilities is clearly indicated by the circumstances which authority he would not have had in the absence of this joint resolution.

SEPARABILITY CLAUSE

Sec. 9. If any provision of this joint resolution or the application thereof to any person or circumstances is held invalid, the remainder of the joint resolution and the application of such provision to any other person or circumstance shall not be affected thereby.

EFFECTIVE DATE

Sec. 10. This joint resolution shall take effect on the date of its enactment.

b. National Emergencies Act, as amended [1]

Public Law 94-412 [H.R. 3884], 90 Stat. 1255, approved September 14, 1976; Public Law 95-223 [H.R. 7738], 91 Stat. 1625, approved December 28, 1977; and by Public Law 99-93 [H.R. 2068], 99 Stat. 448, approved August 16, 1985

AN ACT To terminate certain authorities with respect to national emergencies still in effect, and to provide for orderly implementation and termination of future national emergencies.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Emergencies Act".

TITLE I—TERMINATING EXISTING DECLARED EMERGENCIES

Sec. 101. (a) All powers and authorities possessed by the President, any other officer or employee of the Federal Government, or any executive agency, as defined in section 105 of title 5, United States Code, as a result of the existence of this Act are terminated two years from the date of such enactment. Such termination shall not affect—

(1) any action taken or proceeding pending not finally concluded or determined on such date;

(2) any action or proceeding based on any act committed prior to such date; or

(3) any rights or duties that matured or penalties that were incurred prior to such date.

(b) For the purpose of this section, the words "any national emergency in effect" means a general declaration of emergency made by the President.

TITLE II—DECLARATIONS OF FUTURE NATIONAL EMERGENCIES

Sec. 201. (a) With respect to Acts of Congress authorizing the exercise, during the period of a national emergency, of any special or extraordinary power, the President is authorized to declare such national emergency. Such proclamation shall immediately be transmitted to the Congress and published in the Federal Register.

(b) Any provisions of law conferring powers and authorities to be exercised during a national emergency shall be effective and remain in effect (1) only when the President (in accordance with subsection (a) of this section), specifically declares a national emergency, and (2) only in accordance with this Act. No law enacted after the date of enactment of this Act shall supersede this title unless it does so in specific terms, referring to this title, and declaring that the new law supersedes the provisions of this title.

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[1] 50 U.S.C. 1601-1651. See also vol. III, sec. J(3) on International Economic Sanctions, beginning at page 940.

Sec. 202.[2] (a) Any national emergency declared by the President in accordance with this title shall terminate if—

(1) there is enacted into law a joint resolution terminating the emergency; or

(2) the President issues a proclamation terminating the emergency.

Any national emergency declared by the President shall be terminated on the date specified in any joint resolution referred to in clause (1) or on the date specified in a proclamation by the President terminating the emergency as provided in clause (2) of this subsection, whichever date is earlier, and any powers or authorities exercised by reason of said emergency shall cease to be exercised after such specified date, except that such termination shall not affect—

(A) any action taken or proceeding pending not finally concluded or determined on such date;

(B) any action or proceeding based on any act committed prior to such date; or

(C) any rights or duties that matured or penalties that were incurred prior to such date.

(b) Not later than six months after a national emergency is declared, and not later than the end of each six-month period thereafter that such emergency continues, each House of Congress shall meet to consider a vote on a joint resolution to determine whether that emergency shall be terminated.

(c)(1) A joint resolution to terminate a national emergency declared by the President shall be referred to the appropriate committee of the House of Representatives or the Senate, as the case may be. One such joint resolution shall be reported out by such committee together with its recommendations within fifteen calendar days after the day on which such resolution is referred to such committee, unless such House shall otherwise determine by the yeas and nays.

(2) Any joint resolution so reported shall become the pending business of the House in question (in the case of the Senate the time for debate shall be equally divided between the proponents and the opponents) and shall be voted on within three calendar days after the day on which such resolution is reported, unless such House shall otherwise determine by yeas and nays.

(3) Such a joint resolution passed by one House shall be referred to the appropriate committee of the other House and shall be reported out by such committee together with its recommendations within fifteen calendar days after the day on which such resolution is referred to such committee and shall thereupon become the pending business of such House and shall be voted upon within three calendar days after the day on which such resolution is reported, unless such House shall otherwise determine by yeas and nays.

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[2] References to a "joint" resolution instead of a "concurrent" resolution in this section were added by sec. 801 of the Foreign Relations Authorization Act, (Public Law 99-93, 99 Stat. 448).

(4) In the case of any disagreement between the two Houses of Congress with respect to a joint resolution passed by both Houses, conferees shall be promptly appointed and the committee of conference shall make and file a report with respect to such joint resolution within six calendar days after the day on which managers on the part of the Senate and the House have been appointed. Notwithstanding any rule in either House concerning the printing of conference reports or concerning any delay in the consideration of such reports, such report shall be acted on by both Houses not later than six calendar days after the conference report is filed in the House in which such report is filed first. In the event the conferees are unable to agree within forty-eight hours, they shall report back to their respective houses in disagreement.

(5) Paragraphs (1)-(4) of this subsection, subsection (b) of this section, and section 502(b) of this Act are enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in the House in the case of resolutions described by this subsection; and they supersede other rules only to the extent that they are inconsistent therewith; with

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

(d) Any national emergency declared by the President in accordance with this title, and not otherwise previously terminated, shall terminate on the anniversary of the declaration of that emergency if, within the ninety-day period prior to each anniversary date, the President does not publish in the Federal Register and transmit to the Congress a notice stating that such emergency is to continue in effect after such anniversary.

TITLE III—EXERCISE OF EMERGENCY POWERS AND AUTHORITIES

Sec. 301. When the President declares a national emergency, no powers or authorities made available by statute for use in the event of an emergency shall be exercised unless and until the President specifies the provisions of law under which he proposes that he, or other officers will act. Such specification may be made either in the declaration of a national emergency, or by one or more contemporaneous or subsequent Executive orders published in the Federal Register and transmitted to the Congress.

TITLE IV—ACCOUNTABILITY AND REPORTING REQUIREMENTS OF THE PRESIDENT

Sec. 401. (a) When the President declares a national emergency, or Congress declares war, the President shall be responsible for maintaining a file and index of all significant orders of the President, including Executive orders and proclamations, and each Executive agency shall maintain a file and index of all rules and regulations, issued during such emergency or war issued pursuant to such declarations.

(b) All such significant orders of the President, including Executive orders, and such rules and regulations shall be transmitted to the Congress promptly under means to assure confidentiality where appropriate.

(c) When the President declares a national emergency or Congress declares war, the President shall transmit to Congress, within ninety days after the end of each six-month period after such declarations, a report on the total expenditures incurred by the United States Government during such six-month period which are directly attributable to the exercise of powers and authorities conferred by such declaration. Not later than ninety days after the termination of each such emergency or war, the President shall transmit a final report on all such expenditures.

TITLE V—REPEAL AND CONTINUATION OF CERTAIN EMERGENCY POWER AND OTHER STATUTES

Sec. 501. (a) Section 349(a) of the Immigration and Nationality Act (8 U.S.C. 148(a)) is amended—

(1) at the end of paragraph (9), by striking out "; or" and inserting in lieu thereof a period; and

(2) by striking out paragraph (10).

(b) Section 2667(b) of title 10 of the United States Code is amended—

(1) by inserting "and" at the end of paragraph (3);

(2) by striking out paragraph (4); and

(3) by redesignating paragraph (5) and (4).

(c) The joint resolution entitled "Joint resolution to authorize the temporary continuation of regulation of consumer credit", approved August 8, 1947 (12 U.S.C. 249), is repealed.

(d) Section 5(m) of the Tennessee Valley Authority Act of 1933 as amended (16 U.S.C. 831d(m)) is repealed.

(e) Section 1383 of title 18, United States Code, is repealed.

(f) Section 6 of the Act entitled "An Act to amend the Public Health Service Act is regard to certain matters of personnel and administration, and for other purposes", approved February 28, 1948, is amended by striking out subsections (b), (c), (d), (e), and (f) (42 U.S.C. 211b).

(g) Section 9 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1742) is repealed.

(h) This section shall not affect—

(1) any action taken or proceeding pending not finally concluded or determined at the time of repeal;

(2) any action or proceeding based on any act committed prior to repeal; or

(3) any rights or duties that matured or penalties that were incurred prior to repeal;

Sec. 502. (a) The provisions of this Act shall not apply to the following provisions of law, the powers and authorities conferred thereby, and actions taken thereunder:

(1) * * * [Repealed—1977] [3]

(2) Act of April 28, 1942 (40 U.S.C. 278b);

(3) Act of June 30, 1949 (41 U.S.C. 252);

(4) Section 3477 of the Revised Statutes, as amended (31 U.S.C. 203);

(5) Section 3737 of the Revised Statutes, as amended (41 U.S.C. 15);

(6) Public Law 85-804 (Act of Aug. 28, 1958, 72 Stat. 972; 50 U.S.C. 1431-1435);

(7) Section 2304(a)(1) of title 10, United States Code;

(8) Section 3313, 6386(c), and 8313 of title 10, United States Code.

(b) Each committee of the House of Representatives and the Senate having jurisdiction with respect to any provision of law referred to in subsection (a) of this section shall make a complete study and investigation concerning that provision of law and make a report, including any recommendations and proposed revisions such committee may have, to its respective House of Congress within two hundred and seventy days after the date of enactment of this Act.

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[3] Paragraph (1), which contained a reference to sec. 5(b) of the Trading With the Enemy Act, was repealed by sec. 101(d) of Public Law 95-223 (91 Stat. 1625).

c. United States Military Forces in Lebanon

(1) Multinational Force in Lebanon Resolution [1]

Public Law 98-119 [S.J. Res. 159], 97 Stat. 805, approved October 12, 1983

A JOINT RESOLUTION Providing statutory authorization under the War Powers Resolution for continued United States participation in the multinational peacekeeping force in Lebanon in order to obtain withdrawal of all foreign forces from Lebanon.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1. This joint resolution may be cited as the "Multinational Force in Lebanon Resolution".

FINDINGS AND PURPOSE

Sec. 2. (a) The Congress finds that—

(1) the removal of all foreign forces from Lebanon is an essential United States foreign policy objective in the Middle East;

(2) in order to restore full control by the Government of Lebanon over its own territory, the United States is currently participating in the multinational peacekeeping force (hereafter in this resolution referred to as the "Multinational Force in Lebanon") which was established in accordance with the exchange of letters between the Governments of the United States and Lebanon dated September 25, 1982;

(3) the Multinational Force in Lebanon better enables the Government of Lebanon to establish its unity, independence, and territorial integrity;

(4) progress toward national political reconciliation in Lebanon is necessary; and

(5) United States Armed Forces participating in the Multinational Force in Lebanon are now in hostilities requiring authorization of their continued presence under the War Powers Resolution.

(b) The Congress determines that the requirements of section 4(a)(1) of the War Powers Resolution became operative on August 29, 1983. Consistent with section 5(b) of the War Powers Resolution, the purpose of this joint resolution is to authorize the continued participation of United States Armed Forces in the Multinational Force in Lebanon.

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[1] 50 U.S.C. 1541 note.

(c) The Congress intends this joint resolution to constitute the necessary specific statutory authorization under the War Powers Resolution for continued participation by United States Armed Forces in the Multinational Force in Lebanon.

AUTHORIZATION FOR CONTINUED PARTICIPATION OF UNITED STATES ARMED FORCES IN THE MULTINATIONAL FORCE IN LEBANON

Sec. 3. The President is authorized, for purposes of section 5(b) of the War Powers Resolution, to continue participation by United States Armed Forces in the Multinational Force in Lebanon, subject to the provisions of section 6 of this joint resolution. Such participation shall be limited to performance of the functions, and shall be subject to the limitations, specified in the agreement establishing the Multinational Force in Lebanon as set forth in the exchange of letters between the Governments of the United States and Lebanon dated September 25, 1982, except that this shall not preclude such protective measures as may be necessary to ensure the safety of the Multinational Force in Lebanon.

REPORTS TO THE CONGRESS

Sec. 4. As required by section 4(c) of the War Powers Resolution, the President shall report periodically to the Congress with respect to the situation in Lebanon, but in no event shall he report less often than once every three months. In addition to providing the information required by that section on the status, scope, and duration of hostilities involving United States Armed Forces, such reports shall describe in detail—

(1) the activities being performed by the Multinational Force in Lebanon;

(2) the present composition of the Multinational Force in Lebanon, including a description of the responsibilities and deployment of the armed forces of each participating country;

(3) the results of efforts to reduce and eventually eliminate the Multinational Force in Lebanon;

(4) how continued United States participation in the Multinational Force in Lebanon is advancing United States foreign policy interests in the Middle East; and

(5) what progress has occurred toward national political reconciliation among all Lebanese groups.

STATEMENTS OF POLICY

Sec. 5. (a) The Congress declares that the participation of the armed forces of other countries in the Multinational Force in Lebanon is essential to maintain the international character of the peacekeeping function in Lebanon.

(b) The Congress believes that it should continue to be the policy of the United States to promote continuing discussions with Israel, Syria, and Lebanon with the objective of bringing about the withdrawal of all foreign troops from Lebanon and establishing an environment which will permit the Lebanese Armed Forces to carry out their responsibilities in the Beirut area.

(c) It is the sense of the Congress that, not later than one year after the date of enactment of this joint resolution and at least once a year thereafter, the United States should discuss with the other members of the Security Council of the United Nations the establishment of a United Nations peacekeeping force to assume the responsibilities of the Multinational Force in Lebanon. An analysis of the implications of the response to such discussions for the continuation of the Multinational Force in Lebanon shall be included in the reports required under paragraph (3) of section 4 of this resolution.

DURATION OF AUTHORIZATION FOR UNITED STATES PARTICIPATION IN THE MULTINATIONAL FORCE IN LEBANON

Sec. 6. The participation of United States Armed Forces in the Multinational Force in Lebanon shall be authorized for purposes of the War Powers Resolution until the end of the eighteen-month period beginning on the date of enactment of this resolution unless the Congress extends such authorization, except that such authorization shall terminate sooner upon the occurrence of any one of the following:

(1) the withdrawal of all foreign forces from Lebanon, unless the President determines and certifies to the Congress that continued United States Armed Forces participation in the Multinational Force in Lebanon is required after such withdrawal in order to accomplish the purposes specified in the September 25, 1982, exchange of letters providing for the establishment of the Multinational Force in Lebanon; or

(2) the assumption by the United Nations or the Government of Lebanon of the responsibilities of the Multinational Force in Lebanon; or

(3) the implementation of other effective security arrangements in the area; or

(4) the withdrawal of all other countries from participation in the Multinational Force in Lebanon.

INTERPRETATION OF THIS RESOLUTION

Sec. 7. (a) Nothing in this joint resolution shall preclude the President from withdrawing United States Armed Forces participation in the Multinational Force in Lebanon if circumstances warrant and nothing in this joint resolution shall preclude the Congress by joint resolution from directing such a withdrawal.

(b) Nothing in this joint resolution modifies, limits, or supersedes any provision of the War Powers Resolution or the requirement of section 4(a) of the Lebanon Emergency Assistance Act of 1983, relating to congressional authorization for any substantial expansion in the number or role of United States Armed Forces in Lebanon.

CONGRESSIONAL PRIORITY PROCEDURES FOR AMENDMENTS

Sec. 8. (a) Any joint resolution or bill introduced to amend or repeal this Act shall be referred to the Committee on Foreign Affairs of the House of Representatives or the Committee on Foreign Relations of the Senate, as the case may be. Such joint resolution or bill shall be considered by such committee within fifteen calendar days and may be reported out, together with its recommendations, unless such House shall otherwise determine pursuant to its rules.

(b) Any joint resolution or bill so reported shall become the pending business of the House in question (in the case of the Senate the time for debate shall be equally divided between the proponents and the opponents) and shall be voted on within three calendar days thereafter, unless such House shall otherwise determine by the yeas and nays.

(c) Such a joint resolution or bill passed by one House shall be referred to the committee of the other House named in subsection (a) and shall be reported out by such committee together with its recommendations within fifteen calendar days and shall thereupon become the pending business of such House and shall be voted upon within three calendar days, unless such House shall otherwise determine by the yeas and nays.

(d) In the case of any disagreement between the two Houses of Congress with respect to a joint resolution or bill passed by both Houses conferees shall be promptly appointed and the committee of conference shall make and file a report with respect to such joint resolution within six calendar days after the legislation is referred to the committee of conference. Notwithstanding any rule in either House concerning the printing of conference reports in the Record or concerning any delay in the consideration of such reports, such report shall be acted on by both Houses not later than six calendar days after the conference report is filed. In the event the conferees are unable to agree within forty-eight hours, they shall report back to their respective Houses in disagreement.

(2) Agreement Between the United States and Lebanon Regarding U.S. Participation in the Multinational Force, Dated September 25, 1982

Your Excellency: I have the honor to refer to the urgent discussions between representatives of our two Governments concerning the recent tragic events which have occurred in the Beirut area, and to consultations between my Government and the Secretary General of the United Nations pursuant to United Nations Security Council Resolution 521. On behalf of the Republic of Lebanon, I wish to inform your Excellency's Government of the determination of the Government of Lebanon to restore its sovereignty and authority over the Beirut area and thereby to assure the safety of persons in the area and bring an end to violence that has recurred. To this end, Israeli forces will withdraw from the Beirut area.

In its consultations with the Secretary General, the Government of Lebanon has noted that the urgency of the situation requires immediate action and the Government of Lebanon, therefore, is, in conformity with the objectives in U.N. Security Council Resolution 521, proposing to several nations that they contribute forces to serve as a temporary Multinational Force (MNF) in the Beirut area. The mandate of the MNF will be to provide an interposition force at agreed locations and thereby provide the multinational presence requested by the Lebanese Government to assist it and the Lebanese Armed Forces (LAF) in the Beirut area. This presence will facilitate the restoration of Lebanese Government sovereignty and authority over the Beirut area, and thereby further efforts of my Government to assure the safety of persons in the area and bring to an end the violence which has tragically recurred. The MNF may undertake other functions only by mutual agreement.

In the foregoing context, I have the honor to propose that the United States of America deploy a force of approximately 1200 personnel to Beirut, subject to the following terms and conditions:

—The American military force shall carry out appropriate activities consistent with the mandate of the MNF.

—Command authority over the American force will be exercised exclusively by the U.S. Government through existing American military channels.

—The LAF and MNF will form a Liaison and Coordination Committee, composed of representatives of the MNF participating governments and chaired by the representatives of my Government. The Liaison and Coordination Committee will have two essential components: (A) Supervisory liaison; and (B) Military and technical liaison and coordination.

—The American force will operate in close coordination with the LAF. To assure effective coordination with the LAF, the American force will assign liaison officers to the LAF and the Government of Lebanon will assign liaison officers to the American force. The LAF liaison officers to the American force will, inter alia, perform liaison with the civilian population, and with the U.N. observers and manifest the authority of the Lebanese Government in all appropriate situations. The American force will provide security for LAF personnel operating with the U.S. contingent.

—In carrying out its mission, the American force will not engage in combat. It may, however, exercise the right of self-defense.

—It is understood that the presence of the American force will be needed only for a limited period to meet the urgent requirements posed by the current situation. The MNF contributors and the Government of Lebanon will consult fully concerning the duration of the MNF presence. Arrangements for the departure of the MNF will be the subject of special consultations between the Government of Lebanon and the MNF participating governments. The American force will depart Lebanon upon any request of the Government of Lebanon or upon the decision of the President of the United States.

—The Government of Lebanon and the LAF will take all measures necessary to ensure the protection of the American force's personnel, to include securing assurance from all armed elements not now under the authority of the Lebanese Government that they will refrain from hostilities and not interfere with any activities of the MNF.

—The American force will enjoy both the degree of freedom of movement and the right to undertake those activities deemed necessary for the performance of its mission for the support of its personnel. Accordingly, it shall enjoy the privileges and immunities accorded the administrative and technical staff of the American Embassy in Beirut, and shall be exempt from immigration and customs requirements, and restrictions on entering or departing Lebanon. Personnel, property, and equipment of the American force introduced into Lebanon shall be exempt from any form of tax, duty, charge, or levy.

I have the further honor to propose, if the foregoing is acceptable to your Excellency's Government, that Your Excellency's reply to that effect, together with this note, shall constitute an agreement between our two Governments.

Please accept, Your Excellency, the assurances of my highest consideration.

FOUAD BOUTROS,
Deputy Prime Minister/Minister of Foreign Affairs.

September 25, 1982.

YOUR EXCELLENCY: I have the honor to refer to your Excellency's note of 25 September 1982 requesting the deployment of an American force to the Beirut area. I am pleased to inform you on behalf of my Government that the United States is prepared to deploy temporarily a force of approximately 1,200 personnel as part of a Multinational Force (MNF) to establish an environment which will permit the Lebanese Armed Forces (LAF) to carry out their responsibilities in the Beirut area. It is understood that the presence of such an American force will facilitate the restoration of Lebanese Government sovereignty and authority over the Beirut area, an objective which is fully shared by my Government, and thereby further efforts of the Government of Lebanon to assure the safety of persons in the area and bring to an end the violence which has tragically recurred.

I have the further honor to inform you that my Government accepts the terms and conditions concerning the presence of the American force in the Beirut area as set forth in your note, and that Your Excellency's note and this reply accordingly constitute an agreement between our two Governments.

ROBERT DILLON,
U.S. Ambassador.

2. Cuban Resolution

Public Law 87-733 [S.J. Res. 230], 76 Stat. 697, approved October 3, 1962 [1]

JOINT RESOLUTION Expressing the determination of the United States with respect to the situation in Cuba.

Whereas President James Monroe, announcing the Monroe Doctrine in 1823, declared that the United States would consider any attempt on the part of European powers to "extend their system to any portion of this hemisphere as dangerous to our peace and safety"; and

Whereas in the Rio Treaty of 1947 the parties agreed that "an armed attack by any State against an American State shall be considered as an attack against all the American States, and, consequently, each one of the said contracting parties undertakes to assist in meeting the attack in the exercise of the inherent right of individual or collective self-defense recognized by article 51 of the Charter of the United Nations"; and

Whereas the Foreign Ministers of the Organization of American States at Punta del Este in January 1962 declared: "the present Government of Cuba has identified itself with the principles of Marxist-Leninist ideology, has established a political, economic, and social system based on that doctrine, and accepts military assistance from extracontinental Communist powers, including even the threat of military intervention in America on the part of the Soviet Union"; and

Whereas the International Communist movement has increasingly extended into Cuba its political, economic, and military sphere of influence: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States is determined—

(a) to prevent by whatever means may be necessary, including the use of arms, the Marxist-Leninist regime in Cuba from extending, by force or the threat of force, its aggressive or subversive activities to any part of this hemisphere;

(b) to prevent in Cuba the creation or use of an externally supported military capability endangering the security of the United States; and

(c) to work with the Organization of American States and with freedom-loving Cubans to support the aspirations of the Cuban people for self-determination.

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[1] See also the Supplemental Appropriations Act, 1982 (Public Law 97-257, 96 Stat. 818 at 833) and sec. 1543 of the Department of Defense Authorization Act, 1985 (Public Law 98-525, 98 Stat. 2639) which reaffirmed Public Law 87-733.

3. Middle East Resolutions and Related Material

a. Resolution to Promote Peace and Stability in the Middle East

Public Law 85-7 [H.J. Res. 117], 71 Stat. 5, approved March 9, 1957, as amended by the Foreign Assistance Act of 1961, Public Law 87-195 [S. 1983], 75 Stat. 424, approved September 4, 1961 [1]

JOINT RESOLUTION To promote peace and stability in the Middle East.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President be and hereby is authorized to cooperate with and assist any nation or group of nations in the general area of the Middle East desiring such assistance in the development of economic strength dedicated to the maintenance of national independence.

Sec. 2. The President is authorized to undertake, in the general area of the Middle East, military assistance programs with any nation or group of nations of that area desiring such assistance. Furthermore, the United States regards as vital to the national interest and world peace the preservation of the independence and integrity of the nations of the Middle East. To this end, if the President determines the necessity thereof, the United States is prepared to use armed forces to assist any nation or group of such nations requesting assistance against armed aggression from any country controlled by international communism: *Provided,* That such employment shall be consonant with the treaty obligations of the United States and with the Constitution of the United States.

Sec. 3. The President is hereby authorized to use during the balance of fiscal year 1957 for economic and military assistance under this joint resolution not to exceed $200,000,000 from any appropriation now available for carrying out the provisions of the Mutual Security Act of 1954, as amended, in accord with the provisions of such Act: *Provided,* That, whenever the President determines it to be important to the security of the United States, such use may be under the authority of section 401(a) of the Mutual Security Act of 1954, as amended (except that the provisions of section 105(a) thereof shall not be waived), and without regard to the provisions of section 105 of the Mutual Security Appropriation Act, 1957: *Provided, further,* That obligations incurred in carrying out the purposes of the first sentence of section 2 of this joint resolution shall be paid only out of appropriations for military assistance, and obligations incurred in carrying out the purposes of the first section of this joint resolution shall be paid only out of appropriations other than those for military assistance. This authorization is in addition to other existing authorizations with respect to the use of such appropriations. None of the additional authorizations contained in this section shall be used until fifteen days after the Committee on Foreign Relations of the Senate, the Committee on Foreign Affairs of the House of Representatives, the Committees on Appropriations of the Senate and the House of Representatives and, when military assistance is involved, the Committees on Armed Services of the Senate and the House of Representatives have been furnished a report showing the object of the proposed use, the country for the benefit of which such use is intended, and the particular appropriation or appropriations for carrying out the provisions of the Mutual Security Act of 1954, as amended, from which the funds are proposed to be derived: *Provided,* That funds available under this section during the balance of fiscal year 1957 shall, in the case of any such report submitted during the last fifteen days of the fiscal year, remain available for use under this section for the purposes stated in such report for a period of twenty days following the date of submission of such report. Nothing contained in this joint resolution shall be construed as itself authorizing the appropriation of additional funds for the purpose of carrying out the provisions of the first section or of the first sentence of section 2 of this joint resolution.

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[1] 22 U.S.C. 1961-1965.

Sec. 4. The President should continue to furnish facilities and military assistance, within the provisions of applicable law and established policies, to the United Nations Emergency Force in the Middle East, with a view to maintaining the truce in that region.

Sec. 5. The President shall whenever appropriate [2] report to the Congress his action hereunder.

Sec. 6. This joint resolution shall expire when the President shall determine that the peace and security of the nations in the general area of the Middle East are reasonably assured by international conditions created by action of the United Nations or otherwise except that it may be terminated earlier by a concurrent resolution of the two Houses of Congress.

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[2] Sec. 705 of the Foreign Assistance Act of 1961 (Public Law 87-195) substituted the words "whenever appropriate" in lieu of the words "within the months of January and July of each year".

b. Multinational Force and Observers Participation Resolution [1]

Public Law 97-132 [S.J. Res. 100], 95 Stat. 1693, approved December 29, 1981

A JOINT RESOLUTION To authorize the participation of the United States in a multinational force and observers to implement the Treaty of Peace between Egypt and Israel.

Whereas the Treaty of Peace between Egypt and Israel signed on March 26, 1979, calls for the supervision of security arrangements to be undertaken by United Nations forces and observers; and

Whereas the United Nations has been unable to assume those responsibilities at this time; and

Whereas a Protocol signed on August 3, 1981, by the Government of the Arab Republic of Egypt and the Government of the State of Israel provides for the creation of an alternative Multinational Force and Observers to implement the Treaty of Peace; and

Whereas the Government of the Arab Republic of Egypt and the Government of the State of Israel have requested that the United States participate in the Multinational Force and Observers: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1. This joint resolution may be cited as the "Multinational Force and Observers Participation Resolution".

STATEMENT OF POLICY

Sec. 2. The Congress considers the establishment of the Multinational Force and Observers to be an essential stage in the development of a comprehensive settlement in the Middle East. The Congress enacts this resolution with the hope and expectation that establishment of the Multinational Force and Observers will assist Egypt and Israel in fulfilling the Camp David accords and bring about the establishment of a self-governing authority in order to provide full autonomy in the West Bank and Gaza.

PARTICIPATION OF UNITED STATES PERSONNEL IN THE MULTINATIONAL FORCE AND OBSERVERS

Sec. 3. (a)(1) Subject to the limitations contained in this resolution, the President is authorized to assign, under such terms and conditions as he may determine, members of the United States

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[1] 22 U.S.C. 3421-3426.

Armed Forces to participate in the Multinational Force and Observers.

(2) The Congress declares that the participation of the military personnel of other countries in the Multinational Force and Observers is essential to maintain the international character of the peacekeeping function in the Sinai: Accordingly—

(A) before the President assigns or details members of the United States Armed Forces to the Multinational Force and Observers, he shall notify the Congress of the names of the other countries that have agreed to provide military personnel for the Multinational Force and Observers, the number of military personnel to be provided by each country, and the functions to be performed by such personnel; and

(B) if a country withdraws from the Multinational Force and Observers with the result that the military personnel of less than four foreign countries remain, every possible effort must be made by the United States to find promptly a country to replace that country.

(3) Members of the United States Armed Forces, and United States civilian personnel, who are assigned, detailed or otherwise provided to the Multinational Force and Observers may perform only those functions or responsibilities which are specified for United Nations Forces and Observers in the Treaty of Peace and in accordance with the Protocol.

(4) The number of members of the United States Armed Forces who are assigned or detailed by the United States Government to the Multinational Force and Observers may not exceed 1,200 at any one time.

(b) Subject to the limitations contained in this resolution, the President is authorized to provide, under such terms and conditions as he may determine, United States civilian personnel to participate as observers in the Multinational Force and Observers.

(c) The status of United States Government personnel assigned to the Multinational Force and Observers under subsection (a)(1) or (b) of this section shall be as provided in section 629 of the Foreign Assistance Act of 1961.

UNITED STATES CONTRIBUTIONS TO COSTS

Sec. 4. (a) In accordance with the agreement set forth in the exchanges of letters between the United States and Egypt and between the United States and Israel which were signed on August 3, 1981, the United States share of the costs of the Multinational Force and Observers—

(1) shall not exceed 60 percent of the budget for the expenses connected with the establishment and initial operation of the Multinational Force and Observers during the period ending September 30, 1982; and

(2) shall not exceed 33⅓ percent of the budget for the annual operating expenses of the Multinational Force and Observers for each financial year beginning after that date.

(b)(1) There are authorized to be appropriated to the President to carry out chapter 6 of part II of the Foreign Assistance Act of 1961, in addition to amounts otherwise available to carry out that chapter, $125,000,000 for the fiscal year 1982 for use in paying the United States contribution to the budget of the Multinational Force and Observers. Amounts appropriated under this subsection [2] are authorized to remain available until expended.

(2) Expenditures made pursuant to section 138 of the joint resolution entitled "Joint Resolution making continuing appropriations for the fiscal year 1982, and for other purposes", approved October 1, 1981 (Public Law 97-51), or pursuant to any subsequent corresponding provision applicable to the fiscal year 1982, shall be charged to the appropriation authorized by this subsection.

(c) Unless required by law, reimbursements to the United States by the Multinational Force and Observers shall be on the basis of identifiable costs actually incurred as a result of requirements imposed by the Multinational Force and Observers, and shall not include administrative surcharges.

NONREIMBURSED COSTS

Sec. 5. (a) Any agency of the United States Government is authorized to provide administrative and technical support and services to the Multinational Force and Observers, without reimbursement and upon such terms and conditions as the President may direct, when the provision of such support or services would not result in significant incremental costs to the United States.

(b) The provision by the United States to the Multinational Force and Observers under the authority of this resolution or any other law of any property, support, or services, including the provision of military and civilian personnel under section 3 of this resolution, on other than a reimbursable basis, shall be kept to a minimum.

(c) The President may provide military training to members of the armed forces of other countries participating in the Multinational Force and Observers.

REPORTS TO THE CONGRESS [3]

Sec. 6. (a) Not later than April 30, 1982, the President shall transmit to the Speaker of the House of Representatives, and to the chairman of the Committee on Foreign Relations of the Senate, a detailed written report with respect to the period ending two weeks prior to that date which contains the information specified in subsection (b).

(b) Not later than January 15 of each year (beginning in 1983), the President shall transmit to the Speaker of the House of Representatives, and to the chairman of the Committee on Foreign Relations of the Senate, a written report which describes—

(1) the activities performed by the Multinational Force and Observers during the preceding year;

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[2] Sec. 138 of Public Law 97-51 (Continuing Appropriations for fiscal year 1982, 95 Stat. 967) provided $125 million in appropriations for U.S. participation in the Multinational Force and Observers.

[3] Pursuant to Executive Order 12361, the reporting functions required under this section were delegated to the Secretary of State. Such Executive Order further instructed the Secretary to consult with the Director of OMB, the Secretary of Defense, the Director of ACDA, the Assistant to the President for National Security Affairs, and the heads of other Executive agencies, as appropriate, in exercising this responsibility. For text of Executive Order 12361, see page 866.

(2) the composition of the Multinational Force and Observers, including a description of the responsibilities and deployment of the military personnel of each participating country;

(3) all costs incurred by the United States Government (including both normal and incremental costs), set forth by category, which are associated with the United States relationship with the Multinational Force and Observers and which were incurred during the preceding fiscal year (whether or not the United States was reimbursed for those costs), specifically including but not limited to—

(A) the costs associated with the United States units and personnel participating in the Multinational Force and Observers (including salaries, allowances, retirement and other benefits, transportation, housing, and operating and maintenance costs), and

(B) the identifiable costs relating to property, support, and services provided by the United States to the Multinational Force and Observers;

(4) the costs which the United States Government would have incurred in maintaining in the United States those United States units and personnel participating in the Multinational Force and Observers;

(5) amounts received by the United States Government from the Multinational Force and Observers as reimbursement;

(6) the types of property, support, or services provided to the Multinational Force and Observers by the United States Government, including identification of the types of property, support, or services provided on a nonreimbursable basis; and

(7) the results of any discussions with Egypt and Israel regarding the future of the Multinational Force and Observers and its possible reduction or elimination.

(c)(1) The reports required by this section shall be as detailed as possible.

(2) The information pursuant to subsection (b)(3) shall, in the case of costs which are not identifiable, be set forth with reasonable accuracy.

(3) The information with respect to any administrative and technical support and services provided on a nonreimbursed basis under section 5(a) of this resolution shall include a description of the types of support and services which have been provided and an estimate of both the total costs of such support and services and the incremental costs incurred by the United States with respect to such support and services.

STATEMENTS OF CONGRESSIONAL INTENT

Sec. 7. (a) Nothing in this resolution is intended to signify approval by the Congress of any agreement, understanding, or commitment made by the Executive branch other than the agreement to participate in the Multinational Force and Observers as set forth in the exchanges of letters between the United States and Egypt and between the United States and Israel which were signed on August 3, 1981.

(b) The limitations contained in this resolution with respect to United States participation in the Multinational Force and Observers apply to the exercise of the authorities provided by this resolution or provided by any other provision of law. No funds appropriated by the Congress may be obligated or expended for any activity which is contrary to the limitations contained in this resolution.

(c) Nothing in this resolution shall affect the responsibilities of the President or the Congress under the War Powers Resolution (Public Law 93–148).

DEFINITIONS

Sec. 8. As used in this resolution—

(1) the term "Multinational Force and Observers" means the Multinational Force and Observers established in accordance with the Protocol between Egypt and Israel signed on August 3, 1981, relating to the implementation of the security arrangements of the Treaty of Peace; and

(2) the term "Treaty of Peace" means the Treaty of Peace between the Arab Republic and Egypt and the State of Israel signed on March 26, 1979, including the Annexes thereto.

c. Multinational Force and Observers Reports

Executive Order 12361, April 27, 1982, 47 F.R. 18313

By the authority vested in me as President of the United States of America by the Multinational Force and Observers Participation Resolution (Public Law 97-132, 95 Stat. 1693) and Section 301 of Title 3 of the United States Code, it is hereby ordered as follows:

Section 1. *Delegation of Functions.* The reporting function conferred upon the President by Section 6 of the Multinational Force and Observers Participation Resolution (22 U.S.C. 3425) is delegated to the Secretary of State.

Sec. 2. *Interagency Coordination.* In the exercise of the function conferred on the Secretary of State by Section 1 of this Order, the Secretary of State shall consult with the Director of the Office of Management and Budget, the Secretary of Defense, the Director of the United States Arms Control and Disarmament Agency, the Assistant to the President for National Security Affairs, and the heads of other Executive agencies as appropriate.

d. Implementing the United States Proposal for the Early-Warning System in Sinai

Public Law 94-110 [H.J. Res. 683] 89 Stat. 572, approved October 13, 1975 [1]

JOINT RESOLUTION To implement the United States proposal for the early-warning system in Sinai.

Whereas an agreement signed on September 4, 1975, by the Government of the Arab Republic of Egypt and the Government of Israel may, when it enters into force, constitute a significant step toward peace in the Middle East;

Whereas the President of the United States on September 1, 1975, transmitted to the Government of the Arab Republic of Egypt and to the Government of Israel identical proposals for United States participation in an early-warning system, the text of which has been submitted to the Congress, providing for the assignment of no more than two hundred United States civilian personnel to carry out certain specified noncombat functions and setting forth the terms and conditions thereof;

Whereas that proposal would permit the Government of the United States to withdraw such personnel if it concludes that their safety is jeopardized or that continuation of their role is no longer necessary; and

Whereas the implementation of the United States proposal for the early-warning system in Sinai may enhance the prospect of compliance in good faith with the terms of the Egyptian-Israeli agreements and thereby promote the cause of peace: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized to implement the "United States Proposal [2] for the Early Warning System in Sinai": *Provided, however,* That United States civilian personnel assigned to Sinai under such proposal shall be removed immediately in the event of an outbreak of hostilities between Egypt and Israel or if the Congress by concurrent resolution determines that the safety of such personnel is jeopardized or that continuation of their role is no longer necessary. Nothing contained in this resolution shall be construed as granting any authority to the President with respect to the introduction of United States Armed Forces into hostilities or into situations wherein involvement in hostilities is clearly indicated by the circumstances which authority he would not have had in the absence of this joint resolution.

Sec. 2. Any concurrent resolution of the type described in the first section of this resolution which is introduced in either House of Congress shall be privileged in the same manner and to the same extent as a concurrent resolution of the type described in section 5(c) of Public Law 93-148 is privileged under section 7 of such law.[3]

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[1] 22 U.S.C. 2441 note.

[2] See vol. V, sec. G, for text of the U.S. proposal.

Sec. 3. The United States civilian personnel participating in the early warning system in Sinai shall include only individuals who have volunteered to participate in such system.

Sec. 4. Whenever United States civilian personnel, pursuant to this resolution, participate in an early warning system, the President shall, so long as the participation of such personnel continues, submit written reports to the Congress periodically, but no less frequently than once every six months, on (1) the status, scope, and anticipated duration of their participation, and (2) the feasibility of ending or reducing as soon as possible their participation by substituting nationals of other countries or by making technological changes. The appropriate committees of the Congress shall promptly hold hearings on each report of the President and report to the Congress any findings, conclusions, and recommendations.

Sec. 5. The authority contained in this joint resolution to implement the "United States Proposal for the Early Warning System in Sinai" does not signify approval of the Congress of any other agreement, understanding, or commitment made by the executive branch.

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[3] 50 U.S.C. 1544, 1546. War Powers Resolution. For text, see page 841.

4. Berlin Resolution

House Concurrent Resolution 570, 87th Congress, 76 Stat. 1429, passed October 10, 1962

CONCURRENT RESOLUTION

Whereas the primary purpose of the United States in its relations with all other nations is and has been to develop and sustain a just and enduring peace for all; and

Whereas it is the purpose of the United States to encourage and support the establishment of a free, unified, and democratic Germany; and

Whereas in connection with the termination of hostilities in World War II the United States, the United Kingdom, France, and the Soviet Union freely entered into binding agreements under which the four powers have the right to remain in Berlin, with the right of ingress and egress, until the conclusion of a final settlement with the Government of Germany; and

Whereas no such final settlement has been concluded by the four powers and the aforementioned agreements continue in force: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress—

(a) that the continued exercise of United States, British, and French rights in Berlin constitutes a fundamental political and moral determination;

(b) that the United States would regard as intolerable any violation by the Soviet Union directly or through others of those rights in Berlin, including the right of ingress and egress;

(c) that the United States is determined to prevent by whatever means may be necessary, including the use of arms, any violation of those rights by the Soviet Union directly or through others, and to fulfill our commitment to the people of Berlin with respect to their resolve for freedom.

5. Indochina Resolutions

a. Tonkin Gulf Resolution

Public Law 88-408 [H.J. Res. 1145] 78 Stat. 384, approved August 10, 1964

A JOINT RESOLUTION To promote the maintenance of international peace and security in Southeast Asia.

[Whereas naval units of the Communist regime in Vietnam, in violation of the principles of the Charter of the United Nations and of international law, have deliberately and repeatedly attacked United States naval vessels lawfully present in international waters, and have thereby created a serious threat to international peace; and

[Whereas these attacks are part of a deliberate and systematic campaign of aggression that the Communist regime in North Vietnam has been waging against its neighbors and the nations joined with them in the collective defense of their freedom; and

[Whereas the United States is assisting the peoples of southeast Asia to protect their freedom and has no territorial, military or political ambitions in that area, but desires only that these peoples should be left in peace to work out their own destinies in their own way: Now, therefore, be it

[*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Congress approves and supports the determination of the President, as Commander in Chief, to take all necessary measures to repel any armed attack against the forces of the United States and to prevent further aggression.

[**Sec. 2.** The United States regards as vital to its national interest and to world peace the maintenance of international peace and security in southeast Asia. Consonant with the Constitution of the United States and the Charter of the United Nations and in accordance with its obligations under the Southeast Asia Collective Defense Treaty, the United States is, therefore, prepared, as the President determines, to take all necessary steps, including the use of armed force, to assist any member or protocol state of the Southeast Asia Collective Defense Treaty requesting assistance in defense of its freedom.

[**Sec. 3.** This resolution shall expire when the President shall determine that the peace and security of the area is reasonably assured by international conditions created by action of the United Nations or otherwise, except that it may be terminated earlier by concurrent resolution of the Congress.]

NOTE.—Sec. 12 of Public Law 91-672, the Foreign Military Sales Act Amendments, approved January 12, 1971, provided that the joint resolution should terminate effective January 2, 1971. (See vol. I, page 498.) See also, S. Con. Res. 64, passed July 10, 1970.

b. Creation of a Select Committee to Investigate the Problem of United States Servicemen Missing in Action in Southeast Asia

House Resolution 335, 94th Congress, agreed to September 11, 1975

Resolved, That (a) there is hereby established in the House of Representatives a select committee composed of ten Members of the House.

(b) Members shall be appointed by the Speaker of the House, and one Member shall be designated by the Speaker to serve as chairman.

(c) Any vacancy occurring in the membership of the select committee shall be filled in the same manner in which the original appointment was made.

Sec. 2. The select committee is authorized and directed to conduct a full and complete investigation and study of—

(1) the problem of United States servicemen still identified as missing in action, as well as those known dead whose bodies have not been recovered, as a result of military operations in North Vietnam, South Vietnam, Laos, and Cambodia and the problem of United States civilians identified as missing or unaccounted for, as well as those known dead whose bodies have not been recovered in North Vietnam, South Vietnam, Laos, and Cambodia;

(2) the need for additional international inspection teams to determine whether there are servicemen still held as prisoners of war or civilians held captive or unwillingly detained in the aforementioned areas.

Sec. 3. For the purpose of this resolution, this select committee is authorized to sit and act during the present Congress at times and places as it deems appropriate whether the House is sitting, has recessed, or has adjourned. The select committee is authorized to hold such hearings, and to require, by subpena or other power, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents as it deems necessary. The committee and its staff may conduct field investigations or inspections and shall be authorized to travel to Southeast Asia if deemed necessary to investigate aspects of the problem.

(b) Subpenas may be issued over the signature of the chairman of the select committee or any member designated by him, and may be served by any person designated by the chairman or such member.

(c) The chairman of the select committee, or any member designated by him, may administer oaths to any witness.

Sec. 4. To enable the select committee to carry out the purposes of this resolution, it is authorized to employ and fix compensation of such clerks, experts, consultants, technicians, and clerical and stenographic assistants as it deems necessary. The committee may reimburse the members of its staff for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the select committee other than expenses in connection with meetings of the select committee held in the District of Columbia.

Sec. 5. The select committee is authorized and directed to report to the House with respect to results of its investigation as soon as is practicable but not later than one year after adoption of the resolution. Any report made when the House is not in session shall be filed with the Clerk of the House.

Sec. 6. The authority granted herein shall expire thirty days after the filing of the report with the House of Representatives.

Sec. 7. The expenses of the select committee shall be paid from the contingent fund of the House of Representatives upon vouchers signed by the chairman of the select committee and approved by the Speaker.

6. National Commitment

Senate Resolution 85, 91st Congress, Report No. 91-129, agreed to June 25, 1969

RESOLUTION

Whereas accurate definition of the term "national commitment" in recent years has become obscured: Now, therefore, be it

Resolved, That (1) a national commitment for the purpose of this resolution means the use of the Armed Forces of the United States on foreign territory, or a promise to assist a foreign country, government, or people by the use of the Armed Forces or financial resources of the United States, either immediately or upon the happening of certain events, and (2) it is the sense of the Senate that a national commitment by the United States results only from affirmative action taken by the executive and legislative branches of the United States Government by means of a treaty, statute, or concurrent resolution of both Houses of Congress specifically providing for such commitment.

7. North Atlantic Alliance

a. North Atlantic Treaty Organizational Mutual Support Act of 1979

Public Law 96-323 [H.R. 5580], 94 Stat. 1016, approved August 4, 1980; as amended by Public Law 97-22 [H.R. 3807], 95 Stat. 124 at 138, approved July 10, 1981; and by Public Law 99-145 [S. 1160], 99 Stat. 583, approved November 8, 1985

AN ACT To amend title 10, United States Code, to authorize the Secretary of Defense to enter into certain agreements to further the readiness of the military forces of the North Atlantic Treaty Organization.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "North Atlantic Treaty Organization Mutual Support Act of 1979".

Sec. 2. (a) Title 10, United States Code, is amended by inserting after chapter 137 the following new chapter:

"CHAPTER 138—NORTH ATLANTIC TREATY ORGANIZATION ACQUISITION AND CROSS-SERVICING AGREEMENTS

"Sec.
"2341. Authority to acquire logistic support supplies, and services for United States armed forces in Europe.
"2342. Cross-servicing agreements.
"2343. Law applicable to acquisition and cross-servicing agreements.
"2344. Allowable costs under defense contracts.
"2345. Liquidation of accrued credits and liabilities.
"2346. Crediting of receipts.
"2347. Limitation on amounts that may be obligated or accrued by the United States.
"2348. Inventories of supplies not to be increased.
"2349. Annual reports.
"2350. Definitions.

"§ 2341.[1] Authority to acquire logistic support, supplies, and services for United States armed forces in Europe

"Subject to section 2343 of this title and subject to the availability of appropriations, the Secretary of Defense may acquire from the Governments of North Atlantic Treaty Organization countries and from North Atlantic Treaty Organization subsidiary bodies logistic support, supplies, and services for elements of the armed forces deployed in Europe and adjacent waters.

"§ 2342.[1] Cross-servicing agreements

"Subject to section 2343 of this title and to the availability of appropriations, and after consultation with the Secretary of State, the

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[1] Sec. 1304 of the Department of Defense Authorization Act, 1986 (Public Law 99-145, 99 Stat. 741) redesignated secs. 2321 through 2328 as 2341 through 2348; repealed sec. 2329; and redesignated secs. 2330 and 2331 as secs. 2349 and 2350.

Secretary of Defense may enter into agreements with the Government of any North Atlantic Treaty Organization country and with any North Atlantic Treaty Organization country and with any North Atlantic Treaty Organization subsidiary body under which the United States agrees to provide logistic support, supplies, and services to military forces of such country or subsidiary body deployed in Europe and adjacent waters in return for the reciprocal provision of logistic support, supplies, and services by such country or subsidiary body to elements of the armed forces deployed in Europe and adjacent waters.

"§ 2343.[1] Law applicable to acquisition and cross-servicing agreements

"(a) Except as provided in subsection (b), acquisition of logistic support, supplies, and services under section 2321 of this title and agreements entered into under section 2322 of this title shall be made in accordance with chapter 137 of this title and the provisions of this chapter.

"(b) Section 2207, 2304(a),[2] 2306(a), 2306(b), 2306(e), 2306(f), and 2313 of this title, section 3741 of the Revised Statutes (41 U.S.C. 22), and section 719 of the Defense Production Act of 1950 (50 U.S.C. App. 2168) shall not apply to acquisitions made under the authority of section 2321 of this title or to agreements entered into under section 2322 of this title.

"§ 2344.[3] Allowable costs under defense contracts

"(a)(1) The Secretary of Defense shall require that a covered contract provide that if the contractor submits to the Department of Defense a proposal for settlement of indirect costs incurred by the contractor for any period after such costs have been accrued and if that proposal includes the submission of a cost which is unallowable because the cost violates a cost principle in the Federal Acquisition Regulation or the Department of Defense Supplement to the Federal Acquisition Regulation, the cost shall be disallowed.

"(2) If the Secretary determines by clear and convincing evidence that a cost submitted by a contractor in its proposal for settlement is unallowable under paragraph (1), the Secretary shall assess a penalty against the contractor in an amount equal to—

"(A) the amount of the disallowed costs; plus

"(B) interest (to be computed based on regulations issued by the Secretary) to compensate the United States for the use of any funds which a contractor has been paid in excess of the amount to which the contractor was entitled.

"(b) If the Secretary determines that a proposal for settlement of indirect costs submitted by a contractor includes a cost determined to be unallowable in the case of such contractor before the submission of such proposal, the Secretary shall assess a penalty against the contractor, in addition to the penalty assessed under subsection (a), in an amount equal to two times the amount of such cost.

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[2] Sec. 961(b) of the Department of Defense Authorization Act, 1986 (Public Law 99-145, 99 Stat. 703), changed "2304(g)" to "2304(a)".

[3] Sec. 2344 was comprehensively amended and restated by sec. 911 of the Department of Defense Authorization Act, 1986 (Public Law 99-145, 99 Stat. 682), effective October 1, 1985.

"(c) An action of the Secretary under subsection (a) or (b)—

"(1) shall be considered a final decision for the purposes of section 6 of the Contract Disputes Act of 1978 (41 U.S.C. 605); and

"(2) is appealable in the manner provided in section 7 of such Act (41 U.S.C. 606).

"(d) If any penalty is assessed under subsection (a) or (b) with respect to a proposal for settlement of indirect cost, the Secretary may assess an additional penalty of not more than $10,000 per proposal.

"(e)(1) The following costs are not allowable under a covered contract:

"(A) Costs of entertainment, including amusement, diversion, and social activities and any costs directly associated with such costs (such as tickets to shows or sports events, meals, lodging, rentals, transportation, and gratuities).

"(B) Cost incurred to influence (directly or indirectly) legislative action on any matter pending before Congress or a State legislature.

"(C) Costs incurred in defense of any civil or criminal fraud proceeding or similar proceeding (including filing of any false certification) brought by the United States where the contractor is found liable or has pleaded nolo contendere to a charge of fraud or similar proceeding (including filing of a false certification).

"(D) Payments of fines and penalties resulting from violations of, or failure to comply with, Federal, State, local, or foreign laws and regulations, except when incurred as a result of compliance with specific terms and conditions of the contract or specific written instructions from the contracting officer authorizing in advance such payments in accordance with applicable regulations of the Secretary of Defense.

"(E) Costs of membership in any social, dining, or country club or organization.

"(F) Costs of alcoholic beverages.

"(G) Contributions or donations, regardless of the recipient.

"(H) Costs of advertising designed to promote the contractor or its products.

"(I) Costs of promotional items and memorabilia, including models, gifts, and souvenirs.

"(J) Costs for travel by commercial aircraft which exceed the amount of the standard commercial fare.

"(2) The Secretary shall prescribe regulations to implement this section. Such regulations may establish appropriate definitions, exclusions, limitations, and qualifications.

"(f)(1) The Secretary shall prescribe proposed regulations to amend those provisions of the Department of Defense Supplement to the Federal Acquisition Regulation dealing with the allowability of contractor costs. The amendments shall define in detail and in specific terms those costs which are unallowable, in whole or in part, under covered contracts. These regulations shall, at a minimum, clarify the cost principles applicable to contractor costs of the following:

"(A) Air shows.

"(B) Membership in civic, community, and professional organizations.

"(C) Recruitment.

"(D) Employee morale and welfare.

"(E) Actions to influence (directly or indirectly) executive branch action on regulatory and contract matters (other than costs incurred in regard to contract proposals pursuant to solicited or unsolicited bids).

"(F) Community relations.

"(G) Dining facilities.

"(H) Professional and consulting services, including legal services.

"(I) Compensation.

"(J) Selling and marketing.

"(K) Travel.

"(L) Public relations.

"(M) Hotel and meal expenses.

"(N) Expense of corporate aircraft.

"(O) Company-furnished automobiles.

"(P) Advertising.

"(2) The regulations shall require that a contracting officer not resolve any questioned costs until he has obtained—

"(A) adequate documentation with respect to such costs; and

"(B) the opinion of the defense contract auditor on the allowability of such costs.

"(3) The regulations shall provide that, to the maximum extent practicable, the defense contract auditor be present at any negotiation or meeting with the contractor regarding a determination of the allowability of indirect costs of the contractor.

"(4) The regulations shall require that all categories of costs designated in the report of the defense contract auditor as questioned with respect to a proposal for settlement be resolved in such a manner that the amount of the individual questioned costs that are paid will be reflected in the settlement.

"(g) The regulations of the Secretary required to be prescribed under subsections (e) and (f)(1) shall require, to the maximum extent practicable, that such regulations apply to all subcontractors of a covered contract.

"(h)(1) A proposal for settlement of indirect costs applicable to a covered contract shall include a certification by an official of the contractor that, to the best of the certifying official's knowledge and belief, all indirect costs included in the proposal are allowable. Any such certification shall be in a form prescribed by the Secretary.

"(2) The Secretary of Defense or the Secretary of the military department concerned may waive the requirement for certification under paragraph (1) in the case of any contract if the Secretary—

"(A) determines in such case that it would be in the interest of the United States to waive such certification; and

"(B) states in writing the reasons for that determination and makes such determination available to the public.

"(i) The submission to the Department of Defense of a proposal for settlement of costs for any period after such costs have been accrued that includes a cost that is expressly specified by statute or regulation as being unallowable, with the knowledge that such cost is unallowable, shall be subject to the provisions of section 287 of title 18 and section 3729 of title 31.

"(j) In this section, 'covered contract' means a contract for an amount more than $100,000 entered into by the Department of Defense other than fixed-price contract without cost incentives.".

"§ 2345.[1] Liquidation of accrued credits and liabilities

"Credits and liabilities of the United States accrued as a result of acquisitions and transfers of logistic support, supplies, and services under the authority of the chapter shall be liquidated not less often than once every three months by direct payment to the entity supplying such support, supplies, or services by the entity receiving such support, supplies, or services.

"§ 2346.[1] Crediting of receipts

"Any receipt of the United States as a result of an agreement entered into under the chapter shall be credited to applicable appropriations, accounts, and funds of the Department of Defense.

"§ 2347.[1] Limitation on amounts that may be obligated or accrued by the United States

"(a) Except during a period of active hostilities involving the North Atlantic Treaty Organization, the total amount of reimbursable liabilities that the United States may accrue under this chapter (before the computation of offsetting balances) may not exceed $100,000,000 in any fiscal year, and of such amount not more than $25,000,000 in liabilities may be accrued for the acquisition of supplies (other than petroleum, oils, and lubricants).

"(b) Except during a period of active hostilities involving the North Atlantic Treaty Organization, the total amount of reimbursable credits that the United States may accrue under this chapter (before the computation of setting balances) may not exceed $100,000,000 in any fiscal year.

"§ 2348.[1] Inventories of supplies not to be increased

"Inventories of supplies for elements of the armed forces may not be increased for the purpose of transferring supplies under the authority of this chapter to military forces of any North Atlantic Treaty Organization country or any North Atlantic Treaty Organization subsidiary body.

"§ 2349.[1] Annual reports

"The Secretary of Defense shall submit to the Congress not later than February 1 of each year a report containing—

"(1) a description of each agreement entered into under the authority of this chapter that was in effect during the fiscal year preceding the fiscal year in which such report is submitted;

"(2) a report of the dollar value of each reimbursable acquisition or transfer of logistic support, supplies, or services by the United States (by appropriation, account, or fund) during such fiscal year under each such agreement;

"(3) a report of nonreimbursable acquisitions and transfers of logistic support and services by the United States (by appropriation, account, and fund) during such fiscal year under each such agreement; and

"(4) a description of each agreement entered into (or expected to be entered into) under the authority of this chapter that is expected to be in effect during the fiscal year in which such report is submitted, together with a report of the estimated total dollar value of acquisitions and transfers by the United States (by appropriation, account, or fund) expected to be made during such fiscal year under each such agreement.

"§ 2350.[1] Definitions

"In this chapter:

"(1) 'Logistic support, supplies, and services' means food, billeting, transportation, petroleum, oils, lubricants, clothing, communications, services, medical services, ammunition, base operations support (and construction incident to base operations support), storage services, use of facilities, training services, spare parts and components, repair and maintenance services, and port services.

"(2) 'North Atlantic Treaty Organization subsidiary bodies' means—

"(A) any organization within the meaning of the term 'subsidiary bodies' in article I of the multilateral treaty on the status of the North Atlantic Treaty Organization, National Representatives and International Staff, signed at Ottawa on September 20, 1951 (TIAS 2992; 5 UST 1087); and

"(B) any international military headquarters or organization to which the Protocol on the Status of International Military Headquarters Set Up Pursuant to the North Atlantic Treaty, signed at Paris on August 28, 1952 (TIAS 2978; 5 UST 870), applies.".

(b) The tables of chapters at the beginning of subtitle A, and at the beginning of part IV of subtitle A, of title 10, United States Code, are amended by inserting after the item relating to chapter 137 the following new item:

"138. North Atlantic Treaty Organization Acquisition and Cross-Servicing Agreements .... 2321".

b. Reaffirming the Unity of the North Atlantic Alliance Commitment

Public Law 95-287 [S.J. Res. 137], 92 Stat. 280, approved May 30, 1978

JOINT RESOLUTION Reaffirming the unity of the North Atlantic Alliance commitment.

Whereas thirty years ago the Congress passed the Vandenberg Resolution, which has come to represent the highest qualities of bipartisan statesmanship; and

Whereas the North Atlantic Alliance has preserved the peace in Europe for an entire generation, allowing its members to attain unprecedented levels of prosperity and well-being for their people; and

Whereas the leaders of the Alliance will gather in Washington, D.C., on May 30 and 31, 1978, to renew their adherence to its principles and rededicate themselves to its objectives; and

Whereas this meeting will be the capstone of efforts to ensure that the needs of collective security will be met over the next decade: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the North Atlantic Alliance be reaffirmed as a vital commitment and cornerstone of United States foreign policy, and that the bipartisan spirit that inspired its birth be rededicated to the purpose of strengthening it further in the cause of peace and security.

Sec. 2. The Congress recognizes the extraordinary success of the North Atlantic Alliance in fulfilling its goals of safeguarding the freedom, common heritage and civilization of its peoples, founded on the principles of democracy, individual liberty and the rule of law.

Sec. 3. On the occasion of the NATO summit meeting in Washington, the Congress declares its support for efforts to reaffirm the unity of the North Atlantic Alliance, to strengthen its defensive capabilities to meet threats to the peace, and on this basis to persevere in attempts to lessen tensions with the Warsaw Pact States.

c. Reaffirming the United States Commitment to the North Atlantic Alliance

Public Law 96-9 [H.J. Res. 283], 93 Stat. 22, approved April 19, 1979

JOINT RESOLUTION Reaffirming the United States commitment to the North Atlantic Alliance.

Whereas April 4, 1979, marks the thirtieth anniversary of the signing in Washington of the North Atlantic Treaty;

Whereas the alliance created by the treaty constitutes the manifestation of the ties which bind the democracies of Europe and North America and of their determination to preserve their common heritage of individual liberties, the rule of law, and the dignity of humankind;

Whereas the peace and stability insured by the alliance for thirty years has fostered the well-being and freedom of nearly six hundred million human beings;

Whereas the conditions for political stability and economic prosperity derive from the military security provided by the alliance; and

Whereas the search for world peace, mutual respect among the nations of the world, and reduction in armaments are attainable only in a secure environment: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the North Atlantic Alliance be reaffirmed as a vital commitment and cornerstone of United States foreign policy, and that the bipartisan spirit that inspired its birth be rededicated to the purpose of strengthening it further in the cause of peace and security.

Sec. 2. The Congress recognizes the contribution of the Canadian and European Allies to the common defense and to the preservation of the civilization and common heritage of the West.

Sec. 3. On the occasion of this thirtieth anniversary, the Congress pledges its support for the Alliance as the indispensable basis for the achievement of our mutual security, the reduction of tensions, and the pursuit of improved relations among all nations.

Sec. 4. The Congress requests that the President of the United States forward copies of this resolution to the Chiefs of State of all member countries of the North Atlantic Treaty Organization, and to the Secretary General in recognition of his contribution to the strength and confidence of the North Atlantic Treaty Organization.

8. Taiwan Relations

a. Taiwan Relations Act [1]

Public Law 96-8 [H.R. 2479], 93 Stat. 14, approved April 10, 1979; as amended by Public Law 98-164 [Department of State Authorization Act, Fiscal Years 1984 and 1985; H.R. 2915], 97 Stat. 1017 at 1061, approved November 22, 1983

AN ACT To help maintain peace, security, and stability in the Western Pacific and to promote the foreign policy of the United States by authorizing the continuation of commercial, cultural, and other relations between the people of the United States and the people on Taiwan, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1. This Act may be cited as the "Taiwan Relations Act".

FINDINGS AND DECLARATION OF POLICY

Sec. 2. (a) The President having terminated governmental relations between the United States and the governing authorities on Taiwan recognized by the United States as the Republic of China prior to January 1, 1979, the Congress finds that the enactment of this Act is necessary—

(1) to help maintain peace, security, and stability in the Western Pacific; and

(2) to promote the foreign policy of the United States by authorizing the continuation of commercial, cultural, and other relations between the people of the United States and the people on Taiwan.

(b) It is the policy of the United States—

(1) to preserve and promote extensive, close, and friendly commercial, cultural, and other relations between the people of the United States and the people on Taiwan, as well as the people on the China mainland and all other peoples of the Western Pacific area;

(2) to declare that peace and stability in the area are in the political, security, and economic interests of the United States, and are matters of international concern;

(3) to make clear that the United States decision to establish diplomatic relations with the People's Republic of China rests upon the expectation that the future of Taiwan will be determined by peaceful means;

(4) to consider any effort to determine the future of Taiwan by other than peaceful means, including by boycotts or embar-

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[1] 22 U.S.C. 3301-3316.

goes, a threat to the peace and security of the Western Pacific area and of grave concern to the United States;

(5) to provide Taiwan with arms of a defensive character; and

(6) to maintain the capacity of the United States to resist any resort to force or other forms of coercion that would jeopardize the security, or the social or economical system, of the people on Taiwan.

(c) Nothing contained in this Act shall contravene the interest of the United States in human rights, especially with respect to the human rights of all the approximately eighteen million inhabitants of Taiwan. The preservation and enhancement of the human rights of all the people on Taiwan are hereby reaffirmed as objectives of the United States.

IMPLEMENTATION OF UNITED STATES POLICY WITH REGARD TO TAIWAN

Sec. 3. (a) In furtherance of the policy set forth in section 2 of this Act, the United States will make available to Taiwan such defense articles and defense services in such quantity as may be necessary to enable Taiwan to maintain a sufficient self-defense capability.[2]

(b) The President and the Congress shall determine the nature and quantity of such defense articles and services based solely upon their judgment of the needs of Taiwan, in accordance with procedures established by law. Such determination of Taiwan's defense needs shall include review by United States military authorities in connection with recommendations to the President and the Congress.

(c) The President is directed to inform the Congress promptly of any threat to the security or the social or economic system of the people on Taiwan and any danger to the interests of the United States arising therefrom. The President and the Congress shall determine, in accordance with constitutional processes, appropriate action by the United States in response to any such danger.

APPLICATION OF LAWS; INTERNATIONAL AGREEMENTS

Sec. 4. (a) The absence of diplomatic relations or recognition shall not affect the application of the laws of the United States with respect to Taiwan, and the law of the United States shall apply with respect to Taiwan in the manner that the laws of the United States applied with respect to Taiwan prior to January 1, 1979.

(b) The application of subsection (a) of this section shall include, but shall not be limited to, the following:

(1) Whenever the laws of the United States refer or relate to foreign countries, nations, states, governments, or similar entities, such terms shall include and such laws shall apply with respect to Taiwan.

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[2] Sec. 23 of the International Security Assistance Act of 1979 (Public Law 96-92, 93 Stat. 710) provided authorization for the President to transfer to Taiwan war reserve material and other property during calendar years 1980 and 1981. For text of sec. 23, see vol. I, page 447.

(2) Whenever authorized by or pursuant to the laws of the United States to conduct or carry out programs, transactions, or other relations with respect to foreign countries, nations, states, governments, or similar entities, the President or any agency of the United States Government is authorized to conduct and carry out, in accordance with section 6 of this Act, such programs, transactions, and other relations with respect to Taiwan (including, but not limited to, the performance of services for the United States through contracts with commercial entities on Taiwan), in accordance with the applicable laws of the United States.

(3)(A) The absence of diplomatic relations and recognition with respect to Taiwan shall not abrogate, infringe, modify, deny, or otherwise affect in any way any rights or obligations (including but not limited to those involving contracts, debts, or property interests of any kind) under the laws of the United States heretofore or hereafter acquired by or with respect to Taiwan.

(B) For all purposes under the laws of the United States, including actions in any court in the United States, recognition of the People's Republic of China shall not affect in any way the ownership of or other rights or interests in properties, tangible and intangible, and other things of value, owned or held on or prior to December 31, 1978, or thereafter acquired or earned by the governing authorities on Taiwan.

(4) Whenever the application of the laws of the United States depends upon the law that is or was applicable on Taiwan or compliance therewith, the law applied by the people on Taiwan shall be considered the applicable law for that purpose.

(5) Nothing in this Act, nor the facts of the President's action in extending diplomatic recognition to the People's Republic of China, the absence of diplomatic relations between the people on Taiwan and the United States, or the lack of recognition by the United States, and attendant circumstances thereto, shall be construed in any administrative or judicial proceeding as a basis for any United States Government agency, commission, or department to make a finding of fact or determination of law, under the Atomic Energy Act of 1954 and the Nuclear Non-Proliferation Act of 1978, to deny an export license application or to revoke an existing export license for nuclear exports to Taiwan.

(6) For purposes of the Immigration and Nationality Act, Taiwan may be treated in the manner specified in the first sentence of section 202(b) of that Act.[3]

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[3] Sec. 714 of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1548) provided the following:

"Sec. 714. The approval referred to in the first sentence of section 202(b) of the Immigration and Nationality Act shall be considered to have been granted with respect to Taiwan (China)."

The first sentence of such sec. 202(b) stated: "Each independent country, self-governing dominion, mandated territory, and territory under the international trusteeship system of the United Nations, other than the United States and its outlying possessions shall be treated as a separate foreign state for the purposes of the numerical limitation set forth in the proviso to subsection (a) of this section when approved by the Secretary of State."

Continued

(7) The capacity of Taiwan to sue and be sued in courts in the United States, in accordance with the laws of the United States, shall not be abrogated, infringed, modified, denied, or otherwise affected in any way by the absence of diplomatic relations or recognition.

(8) No requirement, whether expressed or implied, under the laws of the United States with respect to maintenance of diplomatic relations or recognition shall be applicable with respect to Taiwan.

(c) For all purposes, including actions in any court in the United States, the Congress approves the continuation in force of all treaties and other international agreements, including multilateral conventions, entered into by the United States and the governing authorities on Taiwan recognized by the United States as the Republic of China prior to January 1, 1979, and in force between them on December 31, 1978, unless and until terminated in accordance with law.

(d) Nothing in this Act may be construed as a basis for supporting the exclusion or expulsion of Taiwan from continued membership in any international financial institution of any other international organization.

OVERSEAS PRIVATE INVESTMENT CORPORATION

Sec. 5. (a) During the three-year period beginning on the date of enactment of this Act, the $1,000 per capita income restriction in clause (2) of the second undesignated paragraph of section 231 of the Foreign Assistance Act of 1961 shall not restrict the activities of the Overseas Private Investment Corporation in determining whether to provide any insurance, reinsurance, loans, or guaranties with respect to investment projects on Taiwan.

(b) Except as provided in subsection (a) of this section, in issuing insurance, reinsurance, loans, or guaranties with respect to investment projects on Taiwan, the Overseas Private Insurance Corporation shall apply the same criteria as those applicable in other parts of the world.

THE AMERICAN INSTITUTE OF TAIWAN

Sec. 6. (a) Programs, transactions, and other relations conducted or carried out by the President or any agency of the United States Government with respect to Taiwan shall, in the manner and to the extent directed by the President, be conducted and carried out by or through—

(1) The American Institute in Taiwan, a nonprofit corporation incorporated under the laws of the District of Columbia, or

(2) such comparable successor nongovernmental entity as the President may designate,

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On April 30, 1979, the Department of State made a final ruling whereby 22 CFR Part 42 was amended effective April 23, 1979, to provide that aliens in Taiwan applying for immigrant visas shall be required to appear personally before a designated officer of the American Institute in Taiwan in connection with the execution of his immigrant visa application. This ruling, which was made pursuant to the authority contained in section 104 of the Immigration and Nationality Act, can be found at 44 F.R. 28659, May 16, 1979.

(hereafter in this Act referred to as the "Institute").

(b) Whenever the President or any agency of the United States Government is authorized or required by or pursuant to the laws of the United States to enter into, perform, enforce, or have in force an agreement or transaction relative to Taiwan, such agreement or transaction shall be entered into, performed, and enforced, in the manner and to the extent directed by the President, by or through the Institute.

(c) To the extent that any law, rule, regulation, or ordinance of the District of Columbia, or of any State or political subdivision thereof in which the Institute is incorporated or doing business, impedes or otherwise interferes with the performance of the functions of the Institute pursuant to this Act, such law, rule, regulation, or ordinance shall be deemed to be preempted by this Act.

SERVICES BY THE INSTITUTE TO UNITED STATES CITIZENS ON TAIWAN

Sec. 7. (a) The Institute may authorize any of its employees on Taiwan—

(1) to administer to or take from any person on oath, affirmation, affidavit, or deposition, and to perform any notarial act which any notary public is required or authorized by law to perform within the United States;

(2) to act as provisional conservator of the personal estates of deceased United States citizens; and

(3) to assist and protect the interests of United States persons by performing other acts such as are authorized to be performed outside the United States for consular purposes by such laws of the United States as the President may specify.

(b) Acts performed by authorized employees of the Institute under this section shall be valid, and of like force and effect within the United States, as if performed by any other person authorized under the laws of the United States to perform such acts.

TAX EXEMPT STATUS OF THE INSTITUTE

Sec. 8. (a) The Institute, its property, and its income are exempt from all taxation now or hereafter imposed by the United States (except to the extent that section 11(a)(3) of this Act requires the imposition of taxes imposed under chapter 21 of the Internal Revenue Code of 1954, relating to the Federal Insurance Contributions Act) or by any State or local taxing authority of the United States.

(b) For purposes of the Internal Revenue Code of 1954, the Institute shall be treated as an organization described in sections 170(b)(1)(A), 170(c), 2055(a), 2106(a)(2)(A), 2522(a), and 2522(b).

FURNISHING PROPERTY AND SERVICES TO AND OBTAINING SERVICES FROM THE INSTITUTE

Sec. 9. (a) Any agency of the United States Government is authorized to sell, loan, or lease property (including interests therein) to, and to perform administrative and technical support functions and services for the operations of, the Institute upon such terms and conditions as the President may direct. Reimbursements to agencies under this subsection shall be credited to the current applicable appropriation of the agency concerned.

(b) Any agency of the United States Government is authorized to acquire and accept services from the Institute upon such terms and conditions as the President may direct. Whenever the President determines it to be in furtherance of the purposes of this Act, the procurement of services by such agencies from the Institute may be effected without regard to such laws of the United States normally applicable to the acquisition of services by such agencies as the President may specify by Executive order.

(c) Any agency of the United States Government making funds available to the Institute in accordance with this Act shall make arrangements with the Institute for the Comptroller General of the United States to have access to the books and records of the Institute and the opportunity to audit the operations of the Institute.

TAIWAN INSTRUMENTALITY

Sec. 10. (a) Whenever the President or any agency of the United States Government is authorized or required by or pursuant to the laws of the United States to render or provide to or to receive or accept from Taiwan, any performance, communication, assurance, undertaking, or other action, such action shall, in the manner and to the extent directed by the President, be rendered or provided to, or received or accepted from, an instrumentality established by Taiwan which the President determines has the necessary authority under the laws applied by the people on Taiwan to provide assurances and take other actions on behalf of Taiwan in accordance with this Act.

(b) The President is requested to extend to the instrumentality established by Taiwan the same number of offices and complement of personnel as were previously operated in the United States by the governing authorities on Taiwan recognized as the Republic of China prior to January 1, 1979.

(c) Upon the granting by Taiwan of comparable privileges and immunities with respect to the Institute and its appropriate personnel, the President is authorized to extend with respect to the Taiwan instrumentality and its appropriate personnel, such privileges and immunities (subject to appropriate conditions and obligations) as may be necessary for the effective performance of their functions.

SEPARATION OF GOVERNMENT PERSONNEL FOR EMPLOYMENT WITH THE INSTITUTE

Sec. 11. (a)(1) Under such terms and conditions as the President may direct, any agency of the United States Government may separate from Government service for a specified period any officer or employee of that agency who accepts employment with the Institute.

(2) An officer or employee separated by an agency under paragraph (1) of this subsection for employment with the Institute shall be entitled upon termination of such employment to reemployment or reinstatement with such agency (or a successor agency) in an appropriate position with the attendant rights, privileges, and bene-

fits which the officer or employee would have had or acquired had he or she not been so separated, subject to such time period and other conditions as the President may prescribe.

(3) An officer or employee entitled to reemployment or reinstatement rights under paragraph (2) of this subsection shall, while continuously employed by the Institute with no break in continuity of service, continue to participate in any benefit program in which such officer or employee was participating prior to employment by the Institute, including programs for compensation for job-related deaths, injury, or illness; programs for health and life insurance; programs for annual, sick, and other statutory leave; and programs for retirement under any system established by the laws of the United States; except that employment with the Institute shall be the basis for participation in such programs only to the extent that employee deductions and employer contributions, as required in payment for such participation for the period of employment with the Institute, are currently deposited in the program's or system's fund or depository. Death or retirement of any such officer or employee during approved service with the Institute and prior to reemployment or reinstatement shall be considered a death in or retirement from Government service for purposes of any employee or survivor benefits acquired by reason of service with any agency of the United States Government.

(4) Any officer or employee of an agency of the United States Government who entered into service with the Institute on approved leave of absence without pay prior to the enactment of this Act shall receive the benefits of this section for the period of such service.

(b) Any agency of the United States Government employing alien personnel on Taiwan may transfer such personnel, with accrued allowances, benefits, and rights, to the Institute without a break in service for purposes of retirement and other benefits, including continued participation in any system established by the laws of the United States for the retirement of employees in which the alien was participating prior to the transfer to the Institute, except that employment with the Institute shall be creditable for retirement purposes only to the extent that employee deductions and employer contributions, as required, in payment for such participation for the period of employment with the Institute, are currently deposited in the system's fund or depository.

(c) Employees of the Institute shall not be employees of the United States and, in representing the Institute, shall be exempt from section 207 of title 18, United States Code.

(d)(1) For purposes of sections 911 and 913 of the Internal Revenue Code of 1954, amounts paid by the Institute to its employees shall not be treated as earned income. Amounts received by employees of the Institute shall not be included in gross income, and shall be exempt from taxation, to the extent that they are equivalent to amounts received by civilian officers and employees of the Government of the United States as allowances and benefits which are exempt from taxation under section 912 of such Code.

(2) Except to the extent required by subsection (a)(3) of this section, service performed in the employ of the Institute shall not con-

stitute employment for purposes of chapter 21 of such Code and title II of the Social Security Act.

REPORTING REQUIREMENT

Sec. 12. (a) The Secretary of State shall transmit to the Congress the text of any agreement to which the Institute is a party. However, any such agreement the immediate public disclosure of which would, in the opinion of the President, be prejudicial to the national security of the United States shall not be so transmitted to the Congress but shall be transmitted to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives under an appropriate injunction of secrecy to be removed only upon due notice from the President.

(b) For purposes of subsection (a), the term "agreement" includes—

(1) any agreement entered into between the Institute and the governing authorities on Taiwan or the instrumentality established by Taiwan; and

(2) any agreement entered into between the Institute and an agency of the United States Government.

(c) Agreements and transactions made or to be made by or through the Institute shall be subject to the same congressional notification, review, and approval requirements and procedures as if such agreements and transactions were made by or through the agency of the United States Government on behalf of which the Institute is acting.

(d) [4] * * * [Repealed—1983]

RULES AND REGULATIONS

Sec. 13. The President is authorized to prescribe such rules and regulations as he may deem appropriate to carry out the purposes of this Act. During the three-year period beginning on the effective date of this Act, such rules and regulations shall be transmitted promptly to the Speaker of the House of Representatives and to the Committee on Foreign Relations of the Senate. Such action shall not, however, relieve the Institute of the responsibilities placed upon it by this Act.

CONGRESSIONAL OVERSIGHT

Sec. 14. (a) The Committee on Foreign Affairs of the House of Representatives, the Committee on Foreign Relations of the Senate, and other appropriate committees of the Congress shall monitor—

(1) the implementation of the provisions of this Act;

(2) the operation and procedures of the Institute;

(3) the legal and technical aspects of the continuing relationship between the United States and Taiwan; and

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[4] Sec. 1011(a)(3) of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98-164, 97 Stat. 1061) repealed subsec. (d). Subsec. (d) had required a report from the Secretary of State to the Congress every 6 months until April 1981 regarding the economic relations between the United States and Taiwan.

(4) the implementation of the policies of the United States concerning security and cooperation in East Asia.

(b) Such committees shall report, as appropriate, to their respective Houses on the results of their monitoring.

DEFINITIONS

Sec. 15. For purposes of this Act—

(1) the term "laws of the United States" includes any statute, rule, regulation, ordinance, order, or judicial rule of decision of the United States or any political subdivision thereof; and

(2) the term "Taiwan" includes, as the context may require, the islands of Taiwan and the Pescadores, the people on those islands, corporation and other entities and associations created or organized under the laws applied on those islands, and the governing authorities on Taiwan recognized by the United States as the Republic of China prior to January 1, 1979, and any successor governing authorities (including political subdivisions, agencies, and instrumentalities thereof).

AUTHORIZATION OF APPROPRIATIONS

Sec. 16. In addition to funds otherwise available to carry out the provisions of this Act, there are authorized to be appropriated to the Secretary of State for the fiscal year 1980 such funds as may be necessary to carry out such provisions.[5] Such funds are authorized to remain available until expended.

SEVERABILITY OF PROVISIONS

Sec. 17. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of the Act and the application of such provision to any other person or circumstance shall not be affected thereby.

EFFECTIVE DATE

Sec. 18. This Act shall be effective as of January 1, 1979.

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[5] The Department of State Appropriations Act, 1986 (title III of Public Law 99-180, 99 Stat. 1150) provided $9,800,000 for necessary expenses to carry out this Act during fiscal year 1986. The Department of State Appropriations Act, 1987 (title III of Public Law 99-591, 100 Stat. 3341) provided $9,379,000 for fiscal year 1987. The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1988 (Public Law 100-202, 101 Stat. 1329), provided $11,000,000 for fiscal year 1988. The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1989 (Public Law 100-459, 102 Stat. 2205) provided $10,890,000 for fiscal year 1989.

b. Maintaining Unofficial Relations With the People of Taiwan

Executive Order 12143, 44 F.R. 37191, June 22, 1979

In light of the recognition of the People's Republic of China by the United States of America as the sole legal government of China, and by the authority vested in me as President of the United States of America, by the Taiwan Relations Act (Public Law 96-8, 93 Stat. 14, 22 U.S.C. 3301 *et seq.*, hereinafter referred to as "the Act"), and Section 301 of Title 3 of the United States Code, in order to facilitate the maintenance of commercial, cultural and other relations between the people of the United States and the people on Taiwan without official representation or diplomatic relations, it is hereby ordered as follows:

1-1. Delegation and Reservation of Functions.

1-101. Exclusive of the functions otherwise delegated, or reserved to the President, by this Order, there are delegated to the Secretary of State all functions conferred upon the President by the Act. In carrying out these functions, the Secretary of State shall consult with other departments and agencies as appropriate.

1-102. There are delegated to the Director of the Office of Personnel Management the functions conferred upon the President by paragraphs (1) and (2) of Section 11(a) of the Act. These functions shall be exercised in consultation with the Secretary of State.

1-103. There are reserved to the President the functions conferred upon the President by Section 3, Section 7(a)(3), and the second sentence of Section 9(b), and the determination specified in Section 10(a) of the Act.

1-2. Specification of Laws and Determinations.

1-201. Pursuant to Section 7(a) of the Act, I specify the following provisions of law:

(a) Section 4082 of the Revised Statutes (22 U.S.C. 1172);

(b) Section 1707 of the Revised Statutes (22 U.S.C. 1173);

(c) Section 1708 of the Revised Statutes (22 U.S.C. 1174);

(d) Section 1709 of the Revised Statutes, as amended (22 U.S.C. 1175);

(e) Section 1710 of the Revised Statutes as amended (22 U.S.C. 1176);

(f) Section 1711 of the Revised Statutes as amended (22 U.S.C. 1177);

(g) Section 1718 of the Revised Statutes (22 U.S.C. 1185); and

(h) Section 7 of the Act of April 5, 1906 (22 U.S.C. 1195).

1-202. Pursuant to Section 9(b) of the Act, and in furtherance of the purposes of the Act, the procurement of services may be effected without regard to the following provisions of law and limitations of authority:

(a) Section 3648 of the Revised Statutes, as amended (31 U.S.C. 529);

(b) Section 9 of the Act of June 30, 1906 (31 U.S.C. 627), and Section 3679 and 3732 of the Revised Statutes (31 U.S.C. 665; 41 U.S.C. 11), to the extent necessary to permit the indemnification of contractors against unusually hazardous risks, as defined in Institute contracts, consistent, to the extent practicable with regulations prescribed by the Department of Defense pursuant to the provisions of the Act of August 28, 1958 (50 U.S.C. 1431, *et seq.*), and Executive Order No. 10789 of November 14, 1958, as amended;

(c) Section 3709 of the Revised Statutes and Section 302 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 5, 252);

(d) Section 3710 of the Revised Statutes (41 U.S.C. 8);

(e) Section 2 of Title III of the Act of March 3, 1933 (41 U.S.C. 10a);

(f) Section 3735 of the Revised Statutes (41 U.S.C. 13);

(g) Section 304(b) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254(b)), so as to permit the payment of fees in excess of the prescribed fee limitation, but nothing herein shall be construed as authorizing the use of the cost-plus-a-percentage-of-cost system of contracting;

(h) Section 305 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 255);

(i) Sections 2 through 16 of the Contract Disputes Act of 1978 (41 U.S.C. 601-613);

(j) Sections 2304, 2305 and 2306 (a) through (f) of Title 10 of the United States Code, but nothing herein shall be construed as authorizing the use of the cost-plus-a-percentage-of-cost system of contracting; and

(k) Section 719 of the Defense Production Act of 1950 (50 U.S.C. App. 2168).

1–203. (a) With respect to cost-type contracts with the American Institute in Taiwan under which no fee is charged or paid, amendments and modifications of such contracts may be made with or without consideration and may be utilized to accomplish the same things as any original contract could have accomplished, irrespective of the time or circumstances of the making, or the form of the contract amended or modified, or of the amending or modifying contract and irrespective of rights which may have accrued under the contract or the amendments or modifications thereof.

(b) With respect to contracts heretofore or hereafter made under the Act, other than those described in subsection (a) of this Section, amendments and modifications of such contracts may be made with or without consideration and may be utilized to accomplish the same things as any original contract could have accomplished, irrespective of the time or circumstances of the making or the form of the contract amended or modified, or of the amending or modifying contract, and irrespective of rights which may be accrued under the contract or the amendments or modifications thereof, if the Secretary of State determines in each case that such action is necessary to protect the foreign policy interests of the United States.

1–204. Pursuant to Section 10(a) of the Act, the Coordination Council for North American Affairs is determined to be the unofficial instrumentality established by the people on Taiwan having the necessary authority under the laws applied by the people on Taiwan to provide assurances and take other actions on behalf of Taiwan in accordance with the Act.

1–3. President's Memorandum of December 30, 1978.

1–301. This Order supersedes my memorandum of December 30, 1978 for all departments and agencies entitled "Relations With the People on Taiwan" (44 F.R. 1075). Agreements and arrangements referred to in paragraph (B) of that memorandum shall continue in force and shall be performed in accordance with the Act and this Order.

9. Panama Canal

a. Panama Canal Act of 1979 [1]

Public Law 96-70 [H.R. 111], 93 Stat. 452, approved September 27, 1979; as amended by Public Law 98-217 [H.R. 3969], 98 Stat. 9, approved February 14, 1984; Public Law 99-195 [H.R. 664], 99 Stat. 1349, approved December 23, 1985; Public Law 99-209 [H.R. 729], 99 Stat. 1716, approved December 23, 1985; Public Law 99-223 [H.R. 1784], approved December 28, 1985; Public Law 99-368 [H.R. 4409], 100 Stat. 775, approved August 1, 1986; Public Law 100-203 [H.R. 3545], 101 Stat. 1330, approved December 22, 1987; and by Public Law 100-705 [H.R. 5287], 102 Stat. 4685, approved November 19, 1988

AN ACT To provide for the operation and maintenance of the Panama Canal under the Panama Treaty of 1977, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1. This Act may be cited as the "Panama Canal Act of 1979".

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[1] 22 U.S.C. 3601-3871. For text of the Panama Canal Treaty, the document which this legislation implemented, see Legislation on Foreign Relations, vol. V, sec. G.

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STATEMENT OF PURPOSE

Sec. 2. It is the purpose of this Act to provide legislation necessary or desirable for the implementation of the Panama Canal Treaty of 1977 between the United States of America and the Republic of Panama and of the related agreements accompanying that Treaty.

DEFINITIONS AND RECOMMENDATION FOR LEGISLATION

Sec. 3. (a) For purposes of this Act—

(1) references to the Panama Canal Treaty of 1977 refer to the Panama Canal Treaty between the United States of America and the Republic of Panama, signed September 7, 1977; and

(2) references to the Panama Canal Treaty of 1977 and related agreements refer to the Panama Canal Treaty of 1977, the agreements relating to and implementing that Treaty, signed September 7, 1977; and the Agreement Between the United States of America and the Republic of Panama Concerning Air Traffic Control and Related Services, concluded January 8, 1979.

(b) Subject to the provisions of subsection (c) of this section, for purposes of applying the Canal Zone Code or other laws of the United States and regulations issued pursuant to such Code or other laws with respect to transactions, occurrences, or status on or after the effective date of this Act—

(1) "Canal Zone" shall be deemed to refer to the areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements;

(2) "Canal Zone waters" and "waters of the Canal Zone" shall be deemed to refer to "Panama Canal waters" and "waters of the Panama Canal", respectively;

(3) "Government of the Canal Zone" or "Canal Zone Government" shall be deemed to refer to the United States of America;

(4) "Governor of the Canal Zone" or "Governor", wherever the reference is to the Governor of the Canal Zone, shall be deemed to refer to the Panama Canal Commission;

(5) "Panama Canal Company" or "Company", wherever the reference is to the Panama Canal Company, shall be deemed to refer to the Panama Canal Commission;

(6) in chapter 57 of title 5 of the Canal Zone, "hospitals" and "health Bureau" shall be deemed to refer, respectively, to the hospitals operated by the United States in the Republic of Panama, and to the organizational unit operating such hospitals; and

(7) in chapter 57 of title 5 of the Canal Zone Code, in section 4784 of title 6 of such Code, and in section 2 of title 7 of such Code, "health director" shall be deemed to refer to the senior official in charge of the hospitals operated by the United States in the Republic of Panama.

(c) Any reference set forth in subsection (b) of this section shall apply except as otherwise provided in this Act or unless (1) such reference is inconsistent with the provisions of this Act, (2) in the context in which a term is used such reference is clearly not intended, or (3) a term refers to a time before the effective date of this Act.

The President shall, within two years after the Panama Canal Treaty of 1977 enters into force, submit to the Congress a request for legislation which would—

(1) amend or repeal provisions of law which in their present form are applicable only during the transition period prescribed in Article XI of that Treaty.

(2) repeal the Canal Zone Code, and

(3) contain provisions considered necessary and appropriate in light of the experience as of that time under that Treaty.

TITLE I—ADMINISTRATION AND REGULATIONS

Chapter 1—Panama Canal Commission

ESTABLISHMENT OF COMMISSION

Sec. 1101. There is established in the executive branch of the United States Government an agency to be known as the Panama Canal Commission (hereinafter in this Act referred to as the "Commission"). The Commission shall, under the general supervision of the Board established by section 1102 of this Act, be responsible for the maintenance and operation of the Panama Canal and the facilities and appurtenances related thereto. The authority of the President with respect to the Commission shall be exercised through the Secretary of Defense.

SUPERVISORY BOARD

Sec. 1102. (a) The Commission shall be supervised by a Board composed of nine members, one of whom shall be the Secretary of

Defense or an officer of the Department of Defense designated by the Secretary. Not less than five members of the Board shall be nationals of the United States and the remaining members shall be nationals of the Republic of Panama. At least one of the members of the Board who are nationals of the United States shall be experienced and knowledgeable in the management or operation of an American-flag steamship line which has or had ships regularly transiting the Panama Canal, at least one other such member shall be experienced and knowledgeable in United States port operations or in the business of exporting or importing one of the regular commodities dependent on the Panama Canal as a transportation route, and at least one other such member shall be experienced and knowledgeable in labor matters in the United States. Three members of the Board shall hold no other office in or be employed by the Government of the United States. Members of the Board who are nationals of the United States shall cast their votes as directed by the Secretary of Defense or his designee.

(b) The President shall appoint the members of the Board. The members of the Board who are United States nationals shall be appointed by and with the advice and consent of the Senate. Each member of the Board shall hold office at the pleasure of the President and, before assuming the duties of such office, shall take an oath to discharge faithfully the duties of his office. Members of the Board shall serve without compensation but shall be allowed travel or transportation expenses, including per diem in lieu of subsistence, in accordance with section 1107 of this Act or, as authorized by the Chairman of the Board, while on official Panama Canal Commission business.[2]

(c) The Board shall hold meetings as provided in regulations adopted by the Commission and approved by the Secretary of Defense. A quorum for the transaction of business shall consist of a majority of the Board members of which a majority of those present are nationals of the United States. The Secretary of Defense, or the officer of the Department of Defense designated by the Secretary under subsection (a) of this section, may act by proxy for any other member of the Board if that other member authorizes the proxy in writing and signs the proxy.[3] The proxy may be counted to establish a quorum and may be used by the Secretary of Defense, or the officer of the Department of Defense designated by the Secretary under subsection (a) of this section, to cast the vote of the absent Board member and to act for that member with all the powers that member would possess if present,[4] except that, in addition to such travel or transportation expenses, members of the Board who hold no other office with either the Government of the United States or the Republic of Panama for which they receive pay are authorized to be compensated at the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day during which they are traveling to or from or attending meetings of the Board as provided in subsection (c) of this section.[5]

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[2] The words beginning "or, as authorized" and ending at this point were added by sec. 5416 of title V of the Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203, 101 Stat. 1330-270).

[3] Sec. 7 of Public Law 100-705 (102 Stat. 4686) struck out at this point the sentence: "Only one proxy may be valid at any one time."

[4] Public Law 98-217 (98 Stat. 9) added sentences three, four, and five of subsec. (c).

ADMINISTRATOR

Sec. 1103. There shall be an Administrator of the Commission, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall hold office at the pleasure of the President.

DEPUTY ADMINISTRATOR AND CHIEF ENGINEER

Sec. 1104. (a) There shall be a Deputy Administrator and a Chief Engineer of the Commission, both of whom shall be appointed by the President. The Deputy Administrator and the Chief Engineer shall perform such duties as may be prescribed by the President.

(b) The Deputy Administrator and the Chief Engineer shall each be paid compensation at a rate of pay established by the President which does not exceed the rate of basic pay in effect for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code.

CONSULTATIVE COMMITTEE

Sec. 1105. (a) The President shall designate, and the Secretary of State shall coordinate the participation of, representatives of the United States to the Consultative Committee to be established under paragraph 7 of Article III of the Panama Canal Treaty of 1977.

(b) The Consultative Committee shall function as a diplomatic forum for the exchange of views between the United States and the Republic of Panama. The Committee shall advise the United States Government and the Government of the Republic of Panama on matters of policy affecting the operation of the Panama Canal. The Committee shall have no authority to direct the Commission or any other department or agency of the United States to initiate or withhold action.

JOINT COMMISSION ON THE ENVIRONMENT

Sec. 1106. (a) The United States and the Republic of Panama, in accordance with the Panama Canal Treaty of 1977, shall establish a Joint Commission on the Environment (hereinafter in this section referred to as the "Joint Commission") to be composed of not more than three representatives of the United States and three representatives of the Republic of Panama, or such other equivalent numbers of representatives as may be agreed upon by the Governments of the two countries. The United States members of the Joint Commission shall periodically review the implementation of the Panama Canal Treaty of 1977 with respect to its impact on the environment and shall, jointly with the representatives of the Government of Panama, make recommendations to the United States Government and the Government of the Republic of Panama with respect to ways to avoid or mitigate adverse environmental impacts resulting from actions taken pursuant to such Treaty.

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[5] Added by sec. 6 of Public Law 99-223 (99 Stat. 1740).

(b) Representatives of the United States on the Joint Commission shall be appointed by the President and shall serve at the pleasure of the President. Such representatives shall serve without compensation but shall be allowed travel or transportation expenses, including per diem in lieu of subsistence, in accordance with section 1107 of this Act.

(c) Any Federal employee subject to the civil service laws and regulations who is detailed to serve with, or appointed by, the United States representatives on the Joint Commission shall not lose any pay, seniority, or other rights or benefits by reason of such detail or appointment.

(d) The United States representatives on the Joint Commission may, to such extent or in such amounts as are provided in advance in appropriation Acts, appoint and fix the compensation of such personnel as the representatives of the United States on the Joint Commission may consider necessary for the participation of the United States on the Joint Commission.

(e) The United States representatives on the Joint Commission may, in cooperation with the representatives of the Republic of Panama on the Joint Commission in conducting its affairs, subject to the approval of such rules by the Governments of the United States and the Republic of Panama.

TRAVEL EXPENSES

Sec. 1107. While away from their homes, regular places of business, or official stations in performance of services under this chapter, members of the Board of the Commission and the representatives of the United States on the Consultative Committee referred to in section 1105 of this Act and on the Joint Commission on the Environment referred to in section 1106 of this Act shall be allowed travel or transportation expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5, United States Code.

DEFENSE OF THE PANAMA CANAL

Sec. 1108. In the event of an armed attack against the Panama Canal, or when, in the opinion of the President, conditions exist which threaten the security of the Canal, the Administrator of the Commission shall, upon the order of the President, comply with such directives as the United States military officer charged with the protection and defense of the Panama Canal may consider necessary in the exercise of his duties.

JOINT SEA LEVEL CANAL STUDY COMMITTEE

Sec. 1109. (a) The President shall appoint the representatives of the United States to any joint committee or body with the Republic of Panama (to study the possibility of a sea level canal in the Republic of Panama) pursuant to Article XII of the Panama Canal Treaty of 1977.

(b) Upon the completion of any joint study between the United States and the Republic of Panama concerning the feasibility of a sea level canal in the Republic of Panama pursuant to paragraph 1 of Article XII of the Panama Canal Treaty of 1977, the test of the study shall be transmitted by the President of the Senate and to the Speaker of the House of Representatives.

(c) No construction of a sea level canal by the United States in the Republic of Panama shall be undertaken except with express congressional authorization after submission of the study by the President as provided in subsection (b) of this section.

AUTHORITY OF THE AMBASSADOR

Sec. 1110. (a) The United States Ambassador to the Republic of Panama with respect to the responsibilities of the Commission for the transfer to the Republic of Panama of those functions that are to be assumed by the Republic of Panama pursuant to the Panama Canal Treaty of 1977 and related agreements.

(b)(1) The Commission shall not be subject to the direction or supervision of the United States Chief of Mission in the Republic of Panama with respect to the responsibilities of the Commission for the operation, management, or maintenance of the Panama Canal, as established in this or any other Act or in the Panama Canal Treaty of 1977 and related agreements, except that the Commission shall keep the Ambassador fully and currently informed with respect to all activities and operations of the Commission.

(2) Except as provided in paragraph (1) of this subsection, section 16 of the Act of August 1, 1956 (22 U.S.C. 2680a), shall apply with respect to the activities of the Commission.

SECURITY LEGISLATION

Sec. 1111. It is the sense of the Congress that the best interests of the United States require that the President enter into negotiations with the Republic of Panama for the purpose of arranging for the stationing of United States military forces, after the termination of the Panama Canal Treaty of 1977, in the area comprising the Canal Zone before the effective date of this Act, and for the maintenance of installations and facilities, after the termination of such Treaty, for the use of United States military forces stationed in such area. The President shall report to the Congress in a timely manner the status of negotiations conducted pursuant to this section.

CODE OF CONDUCT FOR COMMISSION PERSONNEL

Sec. 1112. (a) Before assuming the duties of his office or employment, each member of the Board of the Commission and each officer and employee of the Commission shall take an oath to discharge faithfully the duties of his office or employment. All employees of the Commission shall be subject to the laws of the United States regarding duties and responsibilities of Federal employees.

(b) Not later than 60 days after all the members of the Board of the Commission have been appointed, the Board shall adopt a code of conduct applicable to the persons referred to in subsection (a) of this section. The code of conduct shall contain provisions substantially equivalent to those contained in part 735 of title 5 of the Code of Federal Regulations on the effective date of this Act. The code of conduct shall, at a minimum, contain provisions substantially equivalent to the following provisions of law:

(1) the provisions of chapter 11 of title 18, United States Code, as amended, relating to bribery, graft, or conflicts of interest, as appropriate to the employees concerned;

(2) section 7352 of title 5, United States Code, as amended;

(3) sections 207, 208, 285, 508, 641, 645, 1001, 1917, and 2071 of title 18, United States Code, as amended;

(4) section 5 of the Act of July 16, 1914 (31 U.S.C. 638a), as amended;

(5) the Ethics in Government Act of 1978 (92 Stat. 1824), as amended; and

(6) those provisions of the laws and regulations of the Republic of Panama which are substantially equivalent to those of the United States set forth in this subsection.

(c) The Commission shall investigate any allegations regarding the violation of the code of conduct adopted pursuant to subsection (b) of this section. The Commission may recommend that the President suspend from the performance of his duties any member of the Board of the Commission or any officer or employee of the Commission, pending judicial proceedings by appropriate authorities concerning such allegations.

(d) The President shall negotiate suitable arrangements with the Republic of Panama whereby each nation shall agree to take all measures within its legal authority to assure that members of the Board of the Commission comply with the code of conduct established pursuant to subsection (b) of this section. Without prejudice to such jurisdiction as the United States may have with respect to members of the Board, the provisions of law enumerated in subsection (b) of this section shall be enforced with respect to members of the Board only in accordance with such arrangements.

OFFICE OF OMBUDSMAN

Sec. 1113. (a) There established within the Commission an Office of Ombudsman, to be directed by an Ombudsman, who shall be appointed by the Commission. It shall be the function of the Office of Ombudsman to receive individual complaints, grievances, requests, and suggestions of employees (and their dependents), of the Commission and other departments and agencies of the United States, including the Smithsonian Institution, conducting operations before the effective date of this Act in the area then comprising the Canal Zone concerning administrative problems, inefficiencies, and conflicts caused within departments and agencies of the United States, including the Smithsonian Institution, as a result of the implementation of the Panama Canal Treaty of 1977 and related agreements.

(b) The Ombudsman shall make findings and render assistance with respect to the complaints, grievances, requests, and suggestions submitted to the Office of Ombudsman, and shall make appropriate recommendations to the Commission or any other department or agency of the United States, including the Smithsonian Institution.

(c) The establishment of the Office of Ombudsman shall not affect any procedures for grievances, appeals, or administrative matters in any other provision of this Act, any other provision of law, or any Federal regulation.

(d) The Ombudsman shall be a citizen of the United States.

(e) The Office of Ombudsman shall terminate upon the termination of the Panama Canal Treaty of 1977.

CHAPTER 2—EMPLOYEES

Subchapter I—Panama Canal Commission Personnel

DEFINITIONS

Sec. 1201. As used in this chapter—

(1) "Executive agency" has the meaning given that term in section 105 of title 5, United States Code;

(2) "uniformed services" has the meaning given the term in section 2101(3) of title 5, United States Code;

(3) "competitive service" has the meaning given that term in section 2102 of title 5, United States Code; and

(4) "United States" when used in a geographic sense, means each of the several States and the District of Columbia.

APPOINTMENT AND COMPENSATION; DUTIES

Sec. 1202. (a) In accordance with this chapter, the Panama Canal Commission may appoint without regard to the provisions of title 5, United States Code, relating to appointments in the competitive service, fix the compensation of, and define the authority and duties of, officers, agents, attorneys, and employees (other than the Administrator, Deputy Administrator, and Chief Engineer) necessary for the management, operation, and maintenance of the Panama Canal and its complementary works, installations, and equipment.

(b) Individuals serving in any Executive agency (other than the Commission) or the Smithsonian Institution, including individuals serving in the uniformed services, may, if appointed under this section or section 1103 or 1104 of this Act, serve as officers or employees of the Commission.

Sec. 1203. (a) The head of any agency may enter into agreements for the transfer or detail to the Commission of any employee of that agency serving under a permanent appointment. Any employee who so transfers or is so detailed shall, upon completion of the employee's tour of duty with the Commission, be entitled to reemployment with the agency from which the employee was transferred or detailed without loss of pay, seniority, or other rights or benefits to which the employee would have been entitled had the employee not been so transferred or been so detailed.

(b) For purposes of this section, the term "agency" means an Executive agency, the United States Postal Service, and the Smithsonian Institution.

(c) The Office of Personel Management shall prescribe regulations to carry out the purposes of this section.

COMPENSATION OF INDIVIDUALS IN THE UNIFORMED SERVICES

Sec. 1204. (a) Except as provided in subsection (b) of this section, any individual who is serving in a position in the Commission and who is a member of a uniformed service shall continue to be paid basic pay by such uniformed service and shall not be paid by the Commission for the period of the service in the uniformed service involved.

(b) If the individual appointed as Administrator, Deputy Administrator, or Chief Engineer of the Commission is a member of a uniformed service, the amount of basic pay otherwise payable to the individual for service in that position shall be reduced, up to the amount of that basic pay, by the amount of the basic pay payable to the individual as a member of a uniformed service.

(c) The Commission shall annually pay to each uniformed service amounts sufficient to reimburse that uniformed service for any basic pay paid by that uniformed service to any member of that service during any period of service in the Commission by the member.

DEDUCTION FROM BASIC PAY OF AMOUNTS DUE FOR SUPPLIES OR SERVICES

Sec. 1205. The Commission may deduct from the basic pay otherwise payable by the Commission to any officer or employee of the Commission any amount due from the officer or employee to the Commission or to any contractor of the Commission for transportation, board, supplies, or any other service. Any amount so deducted may be paid by the Commission to any contractor to whom it is due or may be credited by the Commission to any appropriation from which the Commission has expended such amount.

COST OF LIVING ALLOWANCE

Sec. 1206. Effective beginning October 1, 1984, each officer and employee of the Commission who is a citizen of the United States and was employed by the Panama Canal Company or the Canal Zone Government on September 30, 1979, or who is an individual of any nationality recruited outside the Republic of Panama after September 30, 1979, may be paid on allowance to offset any increased cost of living which may result from the termination of the eligibility of the officer or employee and his dependents to use military postal services, sales stores, and exchanges. The amount of the allowance may be determined by the Commission.

EDUCATIONAL TRAVEL BENEFITS

Sec. 1207. (a) The Commission shall provide by regulation for round-trip transportation between the Republic of Panama and the United States or, in the case of an employee described in paragraph (2) of this subsection, between the Republic of Panama and the country in which such employee is recruited, for undergraduate college education for dependents of employees of the Commission who—

(1) are United States citizens who were employed by the Panama Canal Company or the Canal Zone Government on September 30, 1979, or

(2) are recruited outside the Republic of Panama after that date.

(b) The regulations prescribed by the Commission under this section shall—

(1) provide eligibility requirements which must be met by such dependents to qualify for transportation under this section, including a requirement that all eligible dependents must be under 23 years of age; and

(2) limit the transportation provided to two round trips[6] during any one-year period.

PRIVILEGES AND IMMUNITIES OF CERTAIN EMPLOYEES

Sec. 1208. The Secretary of Defense shall designate those officers and employees of the Commission and other individuals entitled to the privileges and immunities accorded under paragraph 3 or Article VIII of the Panama Canal Treaty of 1977. The Department of State shall furnish to the Republic of Panama a list of the names of such officers, employees, and other individuals and shall notify the Republic of Panama of any subsequent additions to or deletions from the list.

INAPPLICABILITY OF CERTAIN BENEFITS TO CERTAIN NONCITIZENS

Sec. 1209. (a) Chapter 81 of title 5, United States Code, relating to compensation for work injuries, chapter 83 of such title 5, relating to civil service retirement, chapter 87 of such title 5, relating to life insurance, and chapter 89 of such title 5, relating to health insurance, are inapplicable to any individual—

(1) who is not a citizen of the United States;

(2) whose initial appointment by the Commission occurs after October 1, 1979; and

(3) who is covered by the Social Security System of the Republic of Panama pursuant to any provision of the Panama Canal Treaty of 1977 and related agreements.

(b) Subparagraph (B) of section 8701(a) of title 5, United States Code, defining the term employee for purposes of life insurance, is amended to read as follows:

"(B) an individual who is not a citizen or national of the United States and whose permanent duty station is outside the United States, unless the individual was an employee for the purpose of this chapter on September 30, 1979, by reason of service in an Executive agency, the United States Postal Service, or the Smithsonian Institution in the area which was then known as the Canal Zone; or".

(c) Clause (ii) of section 8901(1) of title 5, United States Code, defining the term employee for purposes of health insurance is amended to read as follows:

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[6] Sec. 5(a) of Public Law 99-233 replaced "one round trip" with "two round trips".

"(ii) an individual who is not a citizen or national of the United States and whose permanent duty station is outside the United States, unless the individual was an employee for the purpose of this chapter on September 30, 1979, by reason of service in an Executive agency, the United States Postal Service, or the Smithsonian Institution in the area which was then known as the Canal Zone;".

Subchapter II—Wage and Employment Practices

TRAVEL AND TRANSPORTATION EXPENSES

Sec. 1210.[7] The Commission may pay the expenses of vacation leave travel for an employee of the Commission to whom section 1206 of this Act applies and for transportation of employee's family from the employee's post of duty in Panama to the place of the employee's actual residence at the time of appointment to the post of duty. The authorization of expenses under this section shall be in accordance with subchapter II of chapter 57 of title 5, United States Code, and the regulations issued under that subchapter, except that the Commission may prescribe required periods of service notwithstanding section 5722 of title 5, United States Code, and the regulations issued under subchapter II of chapter 57 of such title.

DEFINITIONS

Sec. 1211. As used in this subchapter—

(a) "agency" means—

(A) an Executive agency or the Smithsonian Institution, to the extent of any election in effect under section 1212(b)(2) of this Act;

(2) "position" means a civilian position in the Commission, or in any other agency if a substantial portion of the duties and responsibilities are performed in the Republic of Panama; and

(3) "employee" means an individual serving in a position.

PANAMA CANAL EMPLOYMENT SYSTEM; MERIT AND OTHER EMPLOYMENT REQUIREMENTS

Sec. 1212. (a) After considering any recommendations of the Commission, the President shall establish a Panama Canal Employment System. The Panama Canal Employment System shall—

(1) be established in accordance with and be subject to the provisions of the Panama Canal Treaty of 1977 and related agreements, the provisions of this chapter, and any other applicable provision of law;

(2) be based on the consideration of the merit of each employee or candidate for employment and the qualifications and fitness of the employee to hold the position concerned;

(3) conform, to the extent practicable and consistent with the provisions of this Act, to the policies, principles, and standards applicable to the competitive service; and

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[7] Sec. 1210 was added by sec. 5(b) of Public Law 99-223 (99 Stat. 1739).

(4) in the case of employees who are citizens of the United States, provide for the appropriate interchange of those employees between positions under the Panama Canal Employment System and positions in the competitive service.

(b)(1) The Commission, and any Executive agency and the Smithsonian Institution to the extent of any election under paragraph (2) of this subsection, shall conduct their employment and pay practices relating to employees in accordance with the Panama Canal Employment System and regulations prescribed by, or under the authority of, the President in accordance with this subchapter.

(2) The head of any Executive agency and the Smithsonian Institution may elect to have the Panama Canal Employment System made applicable in whole or in part to personnel of that agency in the Republic of Panama.

(c) Subject to the provisions of this chapter, the President may, from time to time and after considering any recommendation of the Commission, amend or modify any provision of the Panama Canal Employment System, including any provision relating to selection for appointment, reappointment, reinstatement, reemployment, and retention, with respect to positions, employees, and candidates for employment.

(d) The President may, to the extent the President determines appropriate—

(1) exclude any employee or position from coverage under any provision of this subchapter; and

(2) notwithstanding section 1202 of this Act, extend to any employee, whether or not the employee is a citizen of the United States, the rights and privileges which are provided by applicable laws and regulations for citizens of the United States employed in the competitive service.

EMPLOYMENT STANDARDS

Sec. 1213. The head of each agency shall establish written standards for—

(1) determining the qualifications and fitness of employees and of candidates for employment in positions; and

(2) selecting individuals for appointment, promotion, or transfer to positions.

The standards shall conform to the provisions of this subchapter, and regulations prescribed thereunder, and the Panama Canal Employment System.

INTERIM APPLICATION OF CANAL ZONE MERIT SYSTEM

Sec. 1214. Notwithstanding any repeal made by this Act or any provision of this chapter, the provisions of subchapter III of chapter 7 of title 2 of the Canal Zone Code establishing the Canal Zone Merit System, together with the regulations prescribed thereunder, as in effect on September 30, 1979, shall continue in effect and shall apply with respect to employees under the Panama Canal Employment System is established and in effect pursuant to section 1212 of this Act.

BASIC PAY

Sec. 1215. (a) The head of each agency, in accordance with the provisions of this subchapter, shall establish, and from time to time may revise, the rates of basic pay for positions and employees in the agency.

(b) The rates of basic pay may be established and revised in relation to the rates of basic pay for the same or similar work performed in the United States or in such areas outside the United States as may be designated in the regulations prescribed under section 1223 of this Act.

(c) The head of each agency may make adjustments in rates of basic pay established under subsection (b) of this section in amounts not to exceed the amounts of the adjustments made from time to time by or under statute in the corresponding rates of basic pay for the same or similar work referred to in such subsection (b). The head of the agency may designate the effective date of any such adjustment, except that the date may not be earlier than the effective date of the adjustment in the corresponding rate of basic pay.

UNIFORM APPLICATION OF STANDARDS AND RATES

Sec. 1216. The standards established pursuant to section 1213 of this Act and the rates of basic pay established pursuant to section 1215 of the Act shall be applied without regard to whether the employee or individual concerned is a citizen of the United States or a citizen of the Republic of Panama.

RECRUITMENT AND RETENTION REMUNERATION

Sec. 1217. (a) In addition to basic pay, additional compensation may be paid, in such amounts as the head of the agency concerned determines, as an overseas recruitment or retention differential to any individual who—

(1) before October 1, 1979, was employed by the Panama Canal Company, by the Canal Zone Government, or by any other agency in the area then known as the Canal Zone;

(2) is an employee who was recruited on or after October 1, 1979, outside of the Republic of Panama for placement in the Republic of Panama; or

(3) is a medical doctor employed by the Department of Defense in the Republic of Panama or by the Commission;

if, in the judgment of the head of the agency concerned, the recruitment or retention of the individual is essential.

(b) Any employee described in more than one paragraph of subsection (a) of this section may qualify for a recruitment or retention differential under only one of those paragraphs.

(c) Additional compensation provided under this section may not exceed 25 percent of the rate of basic pay for the same or similar work performed in the United States by individuals employed by the Government of the United States.

(d) Subchapter III of chapter 59 of title 5, United States Code, relating to overseas differentials and allowances, shall not apply with respect to any employee whose permanent duty station is in the Republic of Panama and who is employed by an agency.

BENEFITS BASED ON BASIC PAY

Sec. 1218. For the purposes of determining—

(1) amounts of compensation for disability or death under chapter 81 of title 5, United States Code, relating to compensation for work injuries;

(2) benefits under subchapter III of chapter 83 of title 5, United States Code, relating to civil service retirement;

(3) amounts of insurance under chapter 87 of title 5, United States Code, relating to life insurance;

(4) amounts of overtime pay or other premium pay;

(5) annual leave benefits; and

(6) any other benefits related to basic pay;

the basic pay of each employee shall include the rate of basic pay established for his position under section 1215 of this Act plus the amount of any additional compensation provided under section 1217 of this Act.

SALARY PROTECTION UPON CONVERSION OF PAY RATE

Sec. 1219. (a) In the case of any employee whose rate of basic pay is determined in relation to rates of basic pay for the same of similar work in the United States and which is converted to a rate of basic pay pursuant to section 1215(b) of this Act which is determined in relation to rates in areas other than the United States pursuant to such section 1215(b), the employee shall continue to receive a rate of basic pay not less than that to which the employee was entitled immediately before the conversion.

(b) This section shall cease to apply with respect to any employee if the employee is placed in a position—

(1) for which the rate of basic pay is determined in relation to rates of basic pay in the United States pursuant to section 1215(b) of this Act; or

(2) which is of a lower grade.

REVIEW AND ADJUSTMENT OF CLASSIFICATIONS, GRADES, AND PAY LEVEL

Sec. 1220. An employee may request at any time that the employee's agency—

(1) review the classification of the employee's position or the grade or pay level for the employee's position, or both; and

(2) revise or adjust that classification, grade or pay level, or both, as the case may be.

The request for review and revision or adjustment shall be submitted and adjudicated in accordance with the regularly established appeals procedures of the agency.

PANAMA CANAL BOARD OF APPEALS; DUTIES

Sec. 1221. (a) Subject to the provisions of this chapter, the President shall prescribe regulations establishing a Panama Canal Board of Appeals. The regulations shall provide for the number of members of the Board and their appointment, compensation, and terms of office, the selection of a Chairman of the Board, the appointment and compensation of the Board's employees, and other appropriate matters relating to the Board.

(b) The Board shall review and determine the appeals of employees in accordance with section 1222 of this Act. The decisions of the Board shall conform to the provisions of this subchapter.

APPEALS TO BOARD; PROCEDURES; FINALITY OF DECISIONS

Sec. 1222. (a) An employee may appeal to the Panama Canal Board of Appeals from an adverse determination made by an agency under section 1220 of this Act. The appeal shall be made in writing within a reasonable time (as specified in regulations prescribed by, or under the authority of, the President) after the date of the transmittal by the agency to the employee of written notice of the adverse determination.

(b) The Board may authorize, in connection with an appeal pursuant to subsection (a) of this section, a personal appearance before the Board by the employee, or by a representative of the employee designated for that purpose.

(c) After investigation and consideration of the evidence submitted, the Board shall—

(1) prepare a written decision on the appeal;

(2) transmit its decision to the agency concerned; and

(3) transmit copies of the decision to the employee concerned or to the designated representative.

(d) The decision of the Board on any question or other matter relating to an appeal is final and conclusive. The agency concerned shall take action in accordance with the decision of the Board.

ADMINISTRATION BY THE PRESIDENT

Sec. 1223. (a) The President shall prescribe regulations necessary and appropriate to carry out the provisions of this subchapter and coordinate the policies and activities of agencies under this subchapter.

(b) The President may establish an office within the Commission as the successor to the Canal Zone Central Examining Office. The purpose of the office shall be to assist the President in—

(1) carrying out the President's coordination responsibility under section (a) of this section; and

(2) implementing the provisions of the Panama Canal Treaty of 1977 and related agreements with respect to recruitment, examination, determination of qualification standards and similar matters.

(c) The President may delegate any authority vested in the President by this subchapter and may provide for the redelegation of that authority.

APPLICABILITY OF CERTAIN LAWS

Sec. 1224. This chapter does not affect the applicability of—

(1) the provisions of title 5, United States Code, which relate to preference eligibles;

(2) the provisions of title 5, United States Code, which relate to removal or suspension from the competitive service; and

(3) the provisions of section 554(a) of title 5, United States Code, which relate to wage-board overtime and Sunday rates, with respect to classes of employees who were covered by those provisions on the date of the enactment of this Act.

MINIMUM LEVEL OF PAY; MINIMUM ANNUAL INCREASES

Sec. 1225. (a) Subsection (f) of section 13 of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(f)), relating to applicability to employees in foreign countries and certain United States possessions, is amended by striking out "Johnston Island, and the Canal Zone." and inserting in lieu thereof "and Johnston Island.".

(b)(1) Effective October 1, 1979, each individual employed by an Executive agency or the Smithsonian Institution, whose permanent duty station is located within an area or installation in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements, shall be paid basic pay at a rate of not less than $2.90 an hour.

(2) Effective on October 1 of each succeeding calendar year, the rate of basic pay for each individual referred to in paragraph (1) of this subsection whose basic pay is not fixed in relation to rates of basic pay for the same or similar work performed in the United States shall be increased by an amount equal to not less than 2 percent of the rate of basic pay for that individual in effect immediately before that date.

Subchapter III—Conditions of Employment and Placement

TRANSFERRED OR REEMPLOYED EMPLOYEES

Sec. 1231. (a)(1) With respect to any individual employed in the Panama Canal Company or the Canal Zone Government—

(A) who is transferred—

(i) to a position in the Commission; or

(ii) to a position in an Executive agency or in the Smithsonian Institution the permanent duty station of which is in the Republic of Panama (including the area known before October 1, 1979, as the Canal Zone); or

(B) who is separated by reason of a reduction in force on September 30, 1979, and is appointed to a position in the Commission before April 1, 1980;

the terms and conditions of employment set forth in paragraph (2) of this subsection shall be generally no less favorable, on or after the date of the transfer referred to in subparagraph (A) of this paragraph or the date of the appointment referred to in subparagraph (B) of this paragraph as the case may be, than the terms and conditions of employment with the Panama Canal Company and Canal Zone Government on September 30, 1979, or, in the case of a transfer described in subparagraph (A)(ii) of this paragraph which takes place before that date, on the date of the transfer.

(2) The terms and conditions of employment referred to in paragraph (10 of this subsection are the following:

(A) rates of basic pay;

(B) tropical differential;

(C) premium pay and night differential;

(D) reinstatement and restoration rights;

(E) injury and death compensation benefits;

(F) leave and travel;

(G) transportation and repatriation benefits;

(H) group health and life insurance;

(I) reduction-in-force rights;

(J) an employee grievance system, and the right to appeal adverse and disciplinary actions and positions classification actions;

(K) veterans' preference eligibility;

(L) holidays;

(M) severance pay benefits.

(3)(A) The provisions of this subsection shall take effect on the date of the enactment of this Act.[8]

(B) No spending authority (as described in section 401(c)(2)(C) of the Congressional Budget Act of 1974) provided for under this subsection shall take effect before October 1, 1979.

(C) Effective October 1, 1979, any individual who, but for subparagraph (B) of this paragraph, would have been entitled to one or more payments pursuant to this subsection for periods before October 1, 1979, shall be entitled, to the extent or in such amounts as are provided in advance in appropriation Acts, to a lump sum payment equal to the total amount of all such payments.

(b) Any individual described in subsection (a)(1)(B) of this section who would have met the service requirement for early retirement benefits under section 8336(i) or 8339(d)(2) of title 5, United States Code (as amended by sections 1241(a) and 1242 of this Act, respectively), but for a break in service of more than 3 days immediately after September 30, 1979, shall be considered to meet that requirement. Any break in service by any such individual for purposes of section 8332 of such title 5 during the period beginning September 30, 1979, and ending on the date of the appointment referred to in such subsection (a)(1)(B) shall be considered a period of creditable service under such section 8332 for such individual, except that such period shall not be taken into account for purposes of determining average pay (as defined in section 8331(4) of such title 5) and no deduction, contribution, or deposit shall be required for that period under section 8334 of such title 5.

(c)(1) Section 5(c) of the Defense Department Overseas Teachers Pay and Personnel Practices Act (20 U.S.C. 903(c)) shall not apply with respect to any teacher who was employed by the Canal Zone Government school system on September 30, 1979, and who was transferred from such position to a teaching position which is under the Department of Defense Overseas Dependent School System and the permanent duty station of which is in the Republic of Panama, until the rates of basic compensation established under section 5(c) of such Act equal or exceed the rates of basic compensation then in effect for teachers who were so transferred.

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[8] September 27, 1979.

(2) Section 6(a)(2) of the Defense Department Overseas Teachers Pay and Personnel Practices Act (20 U.S.C. 904(a)(2)) shall not apply with respect to any teacher who was employed by the Canal Zone Government school system on September 30, 1979, and who was transferred from such position to a teaching position which is under the Department of Defense Overseas Dependent School System and the permanent duty station of which is in the Republic of Panama.

(3)(A) The head of a department or agency of the United States may grant a sabbatical to any teacher to whom paragraph (1) of this subsection applies for not to exceed 11 months in order to permit the teacher to engage in study or uncompensated work experience which is in the United States and which will contribute to the teacher's development and effectiveness. Basic compensation shall be paid to teachers on sabbatical under this section in the same manner and to the same extent as basic compensation would have been paid to teachers on sabbatical while employed in the Canal Zone Government school system on the day before the effective date of this Act. A sabbatical shall not result in a loss of, or reduction in, leave to which the teacher is otherwise entitled, credit for time or service, or performance or efficiency rating. The head of the department or agency may authorize in accordance with chapter 57 of title 5, United States Code, such travel expenses (including per diem allowance) as the head of the department or agency may determine to be essential for the study or experience.

(B) A sabbatical under this paragraph may not be granted to any teacher—

(i) more than once in any 10-year period;

(ii) unless the teacher has completed 7 years of service as a teacher; and

(iii) if the teacher is eligible for voluntary retirement with a right to an immediate annuity.

(C)(i) Any teacher in a department or agency of the United States may be granted a sabbatical under this paragraph only if the teacher agrees, as a condition of accepting the sabbatical, to serve in the civil service upon the completion of the sabbatical for a period of two consecutive years.

(ii) Each agreement required under clause (i) of this subparagraph shall provide that in the event the teacher fails to carry out the agreement (except for good and sufficient reason as determined by the head of the department or agency that granted the sabbatical), the teacher shall be liable to the United States for payment of all expenses (including salary) of the sabbatical. The amount shall be treated as a debt due the United States.

(d) Sections 5595(a)(2)(iii), 5724a(a) (3) and (4), and 8102(b) of title 5, United States Code, are each amended by striking out "Canal Zone" each place it appears and inserting in lieu thereof "areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements (as described in section 3(a) of the Panama Canal Act of 1979)".

PLACEMENT

Sec. 1232. (a) Any citizen of the United States—

(1) who, on March 31, 1979, was an employee of the Panama Canal Company or the Canal Zone Government;

(2) who separates or is scheduled to separate on or after such date for any reason other than misconduct or delinquency; and

(3) who is not placed in another appropriate position in the Government of the United States in the Republic of Panama;

shall, upon the employee's request, be accorded appropriate assistance for placement in vacant positions in the Government of the United States in the United States.

(b) Any citizen of the United States—

(1) who, on March 31, 1979, was employed in the Canal Zone as an employee of an Executive agency (other than the Panama Canal Company or the Canal Zone Government) or the Smithsonian Institution;

(2) whose position is eliminated as the result of the implementation of any provision of the Panama Canal Treaty of 1977 and related agreements; and

(3) who is not appointed to another appropriate position in the Government of the United States in the Republic of Panama;

shall, upon the employee's request, be accorded appropriate assistance for placement in vacant positions in the Government of the United States in the United States.

(c) The Office of Personnel Management shall establish and administer a Government-wide placement program for all eligible employees who request appointment to positions under this section.

(d) The provisions of this section shall take effect on the date of the enactment of this Act.[9]

Subchapter IV—Retirement

EARLY RETIREMENT ELIGIBILITY

Sec. 1241. (a) Section 8336 of title 5, United States Code, is amended—

(1) in subsection (c), by inserting "(1)" after "(c)" and by adding at the end thereof the following new paragraph:

"(2) An employee is entitled to an annuity if the employee—

"(A) was a law enforcement officer or firefighter employed by the Panama Canal Company or the Canal Zone Government at any time during the period beginning March 31, 1979, and ending September 30, 1979; and

"(B) is separated from the service before January 1, 2000, after becoming 48 years of age and completing 18 years of service as a law enforcement officer or firefighter, or any combination of such service totaling at least 18 years"; and

(2) by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i)(1) An employee of the Panama Canal Commission or of an Executive agency conducting operations in the Canal Zone or Republic of Panama who is separated from the service before January 1, 2000, who was employed by the Canal Zone Government or the Panama Canal Company at any time during the period beginning March 31, 1979, and ending September 30, 1979, and who has had continuous Panama Canal service, without a break in service of more than 3 days, from that time until separation, is entitled to an annuity if the employee is separated—

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[9] September 27, 1979.

"(A) involuntarily, after completing 20 years of service or after becoming 48 years of age and completing 18 years of service, if the separation is a result of the implementation of any provision of the Panama Canal Treaty of 1977 and related agreements; or

"(B) voluntarily, after completing 23 years of service or after becoming 48 years of age and completing 18 years of service.

"(2) An employee of the Panama Canal Commission or of an Executive agency conducting operations in the Canal Zone or Republic of Panama who is separated from the service before January 1, 2000, who was employed, at a permanent duty station in the Canal Zone, by any Executive agency other than the Canal Zone Government or the Panama Canal Company at any time during the period beginning March 31, 1979, and ending September 30, 1979, and who has had continuous Panama Canal service, without a break in service of more than 3 days, from that time until separation, is entitled to an annuity if—

"(A) the employee is separated involuntarily, after completing 20 years of service or after becoming 48 years of age and completing 18 years of service; and

"(B) the separation is the result of the implementation of any provision of the Panama Canal Treaty of 1977 and related agreements.

"(3) For the purpose of this subsection—

"(A) 'Panama Canal service' means—

"(i) service as an employee of the Canal Zone Government, the Panama Canal Company, or the Panama Canal Commission; or

"(ii) service at a permanent duty station in the Canal Zone or Republic of Panama as an employee of an Executive agency conducting operations in the Canal Zone or the Republic of Panama; and

"(B) 'Executive agency' includes the United States District Court for the District of the Canal Zone and the Smithsonian Institution.".

(b)(1) The amendments made by this section shall take effect on the date of the enactment of this Act, but no amount of annuity under chapter 83 of title 5, United States Code, accruing by reason of those amendments shall be payable for any period before October 1, 1979.

(2) Effective October 1, 1979, any individual who, but for paragraph (1) of this subsection, would have been entitled to one or more annuity payments pursuant to the amendments made by this section for periods before October 1, 1979, shall be entitled, to such extent or in such amounts as are provided in advance in appropriation Acts, to a lump sum payment equal to the total amount of all such annuity payments.

EARLY RETIREMENT COMPUTATION

Sec. 1242. (a) Section 8339(d) of title 5, United States Code, is amended by inserting "(1)" after "(d)" and by adding at the end thereof the following new paragraphs:

"(2) The annuity of an employee retiring under this subchapter who was employed by the Panama Canal Company or Canal Zone Government on September 30, 1979, is computed with respect to the period of continuous Panama Canal service from that date disregarding any break in service of not more than 3 days, by adding—

"(A) 2½ percent of the employee's average pay multiplied by so much of that service as does not exceed 20 years; plus

"(B) 2 percent of the employee's average pay multiplied by so much of that service as exceeds 20 years.

"(3)(A) In the case of an employee who has service as a law enforcement officer or firefighter to which paragraph (2) of this subsection applies, the annuity of that employee is increased by $8 for each full month of that service which is performed in the Republic of Panama.

"(B) In the case of an employee retiring under this subchapter who—

"(i) was employed as a law enforcement officer or firefighter by the Panama Canal Company or Canal Zone government at any time during the period beginning March 31, 1979, and ending September 30, 1979; and

"(ii) does not meet the age and service requirements of section 8336(c) of this title;

the annuity of that employee is increased by $12 for each full month of that service which occurred before October 1, 1979.

"(C) An annuity increase under this paragraph does not apply with respect to service performed after completion of 20 years of service (or any combination of service) as a law enforcement officer or firefighter.

"(4) For the purpose of this subsection—

"(A) 'Panama Canal service' means—

"(i) service as an employee of the Panama Canal Commission; or

"(ii) service at a permanent duty station in the Canal Zone or Republic of Panama as an employee of an Executive agency conducting operations in the Canal Zone or Republic of Panama; and

"(B) 'Executive agency' includes the Smithsonian Institution.".

(b)(1) The amendments made by this section shall take effect on the date of the enactment of this Act, but no amount of annuity under chapter 83 of title 5, United States Code, accruing by reason of those amendments shall be payable for any period before October 1, 1979.

(2) Effective October 1, 1979, any individual who, but for paragraph (1) of this subsection, would have been entitled to one or more annuity payments pursuant to the amendments made by this section for periods before October 1, 1979, shall be entitled, to such extent or in such amounts as are provided in advance in appropria-

tion Acts, to a lump sum payment equal to the total amount of all such annuity payments.

RETIREMENT UNDER SPECIAL TREATY PROVISIONS

Sec. 1243. (a)(1) Subject to subsection (b) of this section, and under such regulations as the President may prescribe, the Secretary of the Treasury shall pay to the Social Security System of the Republic of Panama, out of funds deposited in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund under section 8334(a)(2) of title 5, United States Code, such sums of money as may be necessary to aid in the purchase of a retirement equity in such System for each individual who—

(A) meets the requirements of paragraph (2) of this subsection;

(B) is separated from employment in the Panama Canal Company, the Canal Zone Government, or the Commission by reason of the implementation of any provision of the Panama Canal Treaty of 1977 and related agreements; and

(C) becomes employed in a position covered by the Social Security System of the Republic of Panama through the transfer of a function or activity to the Republic of Panama from the United States or through a job placement assistance program.

(2) This subsection applies with respect to any individual only if the individual—

(A) has been credited with at least 5 years of civilian service under section 8332 of title 5, United States Code, relating to creditable service for purposes of civil service retirement;

(B) is not eligible for an immediate retirement annuity under chapter 83 of title 5, United States Code, relating to civil service retirement, and elects not to receive a deferred annuity under that chapter based on any portion of that service; and

(C) elects to withdraw from the Civil Service Retirement and Disability Fund the individual's entire lump-sum credit (as defined in section 8331(8) of title 5, United States Code) and to transfer that amount to the Social Security System of the Republic of Panama pursuant to the special regime referred to in paragraph 3 of Article VIII of the Agreement in implementation of Article III of the Panama Canal Treaty of 1977.

(b) The amount paid to the Social Security System of the Republic of Panama with respect to any individual under subsection (a) of this section shall not exceed the individual's entire lump-sum credit (as so defined).

(c)(1) Pursuant to paragraph 2(b) of Annex C to the Agreement in Implementation of Article IV of the Panama Canal Treaty of 1977, the President, or the President's designee, shall purchase from a source determined by the President to be appropriate, in accordance with such regulations as the President or the President's designee may prescribe and to such extent or in such amounts as may be provided in advance in appropriation Acts, a nontransferable deferred annuity for the benefit of each employee of an agency or instrumentality of the Government of the United States in the Republic of Panama—

(A) who is not a citizen of the United States;

(B) who was employed on October 1, 1979, and during any period before that date by an agency or instrumentality of the Government of the United States at any permanent duty station in the Republic of Panama (including, with respect to employment before that date, the area then known as the Canal Zone);

(C) who, for any period of service with such agency or instrumentality before October 1, 1979, at any such permanent duty station was not covered, by reason of that service, by the United States Civil Service Retirement System or any other Federal retirement system providing benefits similar to those retirement benefits provided by the Social Security System of the Republic of Panama; and

(D) who on October 1, 1979, is under a Federal retirement system and, on or before that date, has accrued in one or more agencies or instrumentalities of the United States a total of 5 years or more of service which—

(i) is creditable toward any Federal retirement system as in effect on October 1, 1979;

(ii) would have been creditable toward any such retirement system if the retirement system were in effect at the time of the service accrued by the employee; or

(iii) consists of any combination of service described in clauses (i) and (ii) of this subparagraph.

(2) The retirement annuity referred to in paragraph (1) of this subsection with respect to any employee will cover retroactivity, from October 1, 1979, all periods of service, described in subparagraph (D) of that paragraph, by that employee at any permanent duty station in the Republic of Panama (including the area known before that date as the Canal Zone) in agencies and instrumentalities of the Government of the United States during which that employee was not covered by the United States Civil Service Retirement System or any other Federal retirement system providing benefits similar to those retirement benefits provided by the Social Security System of the Republic of Panama.

OBLIGATION OF COMMISSION FOR UNFUNDED LIABILITY

Sec. 1244. Section 8384 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(i)(1) Notwithstanding any other provision of law, the Panama Canal Commission shall be liable for that portion of any estimated increase in the unfunded liability of the fund which is attributable to any benefits payable from the fund to or on behalf of employees and their survivors to the extent attributable to the amendments made by sections 1241 and 1242, and the provisions of sections 1231(b) and 1243(a)(1) of the Panama Canal Act of 1979.

"(2) The estimated increase in the unfunded liability referred to in paragraph (1) of this subsection shall be determined by the Office of Personnel Management. The Secretary of the Treasury shall pay to the Fund from appropriations for that purpose the amount so determined in annual installments with interest computed at the rate in the most recent valuation of the Civil Service Retirement System.".

CASH RELIEF TO CERTAIN FORMER EMPLOYEES

Sec. 1245. (a) The Commission, under the regulation prescribed by the President pursuant to the Act entitled "An Act authorizing cash relief for certain employees of the Panama Canal not coming within the provisions of the Canal Zone Retirement Act", approved July 8, 1937, as amended (50 Stat. 478; 68 Stat. 17), may continue the payments of cash relief to those individual former employees of the Canal Zone Government or Panama Canal Company or their predecessor agencies not coming within the scope of the former Canal Zone Retirement Act whose services were terminated prior to October 5, 1958, because of unfitness for further useful service by reason of mental or physical disability resulting from age or disease. Subject to subsection (b) of this section, that cash relief may not exceed $1.50 per month for each year of service of the employees so furnished relief, with a maximum of $45 per month, plus the amount of any cost-of-living increases in such cash relief granted before October 1, 1979, pursuant to section 181 of title 2 of the Canal Zone Code (as in effect on September 30, 1979), nor be paid to any employee who, at the time of termination for disability prior to October 5, 1958, had less than 10 years' service with the Canal Zone Government, the Panama Canal Company, or their predecessor agencies on the Isthmus of Panama.

(b) An additional amount of $20 per month shall be paid to each person who receives payment of cash relief under subsection (a) of this section and shall be allowed without regard to the limitations contained therein.

(c) Each cash relief payment made pursuant to this section shall be increased on the same effective date and by the same percent, adjusted to the nearest dollar, as civil service retirement annuities are increased under the cost-of-living adjustment provisions of section 8340(b) of title 5, United States Code. Such increase shall apply only to cash relief payments made after October 1, 1979, as increased by annuity increases made after that date under such section 8340(b).

(d) The Commission may pay cash relief to the widow of any former employee of the Canal Zone Government or the Panama Canal Company who, until the time of his death, receives or has received cash relief under subsection (a) of this section, under section 181 of title 2 of the Canal Zone Code (as in effect on September 30, 1979), or under the Act of July 8, 1937, referred to in such subsection (a). The term "widow" as used in this subsection includes only the following:

(1) a woman legally married to such employee at the time of his termination for disability and at his death;

(2) a woman who, although not legally married to such former employee at the time of his termination, had resided continuously with him for at least five years immediately preceding the employee's termination under such circumstances as would at common law make the relationship a valid marriage and who continued to reside with him until his death; and

(3) a woman who has not remarried or assumed a common-law relationship with any other person.

Cash relief granted to such a widow shall not at any time exceed 50 percent of the rate at which cash relief, inclusive of any additional payment under subsection (b) of this section, would be payable to the former employee were he then alive.

(e) Subchapter III of chapter 83 of title 5, United States Code, applies with respect to those individuals who were in the service of the Canal Zone Government or the Panama Canal Company on October 5, 1958, and who, except for the operation of section 13(a)(1) of the Act entitled "An Act to implement item 1 of a Memorandum of Understanding attached to the treaty of January 25, 1955, entered into by the Government of the United States of America and the Government of the Republic of Panama with respect to wage and employment practices of the Government of the United States of America in the Canal Zone", approved July 25, 1958 (72 Stat. 405), would have been within the classes of individuals subject to the Act of July 8, 1937, referred to in subsection (a) of this section.

APPLIANCES FOR EMPLOYEES INJURED BEFORE SEPTEMBER 7, 1916

Sec. 1246. Artificial limbs or other appliances may be purchased by the Commission, out of any funds available [10] to the Commission, for persons who were injured in the service of the Isthmian Canal Commission or of the Panama Canal before September 7, 1916.

Subchapter V—Leave

LEAVE FOR JURY OR WITNESS SERVICE

Sec. 1251. Section 6322(a) of title 5, United States Code, is amended—

(1) by striking out "the Canal Zone, or"; and

(2) by striking out "Islands." and inserting in lieu thereof "Islands, or the Republic of Panama.".

Subchapter VI—Application to Related Personnel

LAW ENFORCEMENT; CANAL ZONE CIVILIAN PERSONNEL POLICY COORDINATION BOARD; RELATED EMPLOYEES

Sec. 1261. (a) For the purposes of sections 1206, 1231, 1232, 1241, and 1242 of this Act, including any amendment made by those sections, the United States Attorney for the District of the Canal Zone and the Assistant United States Attorneys and their clerical assistants, and the United States Marshal for the District of the Canal Zone and his deputies and clerical assistants shall be considered employees of the Commission.

(b) For the purposes of this Act, including any amendment made by this Act, the Executive Director of the Canal Zone Civilian Personnel Policy Coordinating Board, the Manager, Central Examining Office, and their staffs shall be considered to have been employees of the Panama Canal Company with respect to service in those positions before October 1, 1979, and as employees of the Commission with respect to service in those positions on or after that date.

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[10] The word "available" was substituted in lieu of "appropriated" by sec. 5428 of Public Law 100-203 (101 Stat. 1330-274).

(c) The provisions of this section shall take effect on the date of the enactment of this Act.

Subchapter VII—Labor-Management Relations

LABOR-MANAGEMENT RELATIONS

Sec. 1271. (a) Nothing in this Act shall be construed to affect the applicability of chapter 71 of title 5, United States Code, relating to labor-management and employee relations, with respect to the Commission or the operations of any other Executive agency conducted in that area of the Republic of Panama which, on September 30, 1979, was the Canal Zone, except that in applying those provisions—

(1) the definition of "employee" shall be applied without regard to clause (i) of section 7103(a)(2) of such title 5 which relates to nationality and citizenship; and

(2) a unit shall be considered to be appropriate notwithstanding the fact that it includes any supervisor if that supervisor's position (or type of position) was, before October 1, 1979, represented before the Panama Canal Company by a labor organization that included employees who were not supervisors.

(b) Labor-management and employee relations of the Commission, other Executive agencies, and the Smithsonian Institution, their employees, and organizations of those employees, in connection with operations conducted in that area of the Republic of Panama which, on September 30, 1979, was the Canal Zone, shall be governed and regulated solely by the applicable laws, rules, and regulations of the United States.

CHAPTER 3—FUNDS AND ACCOUNTS

Subchapter I—Funds

CANAL ZONE GOVERNMENT FUNDS

Sec. 1301. On the effective date of this Act, any unexpended balances of the appropriation accounts appearing on the books of the United States Government as "Operating Expenses, Canal Zone Government (38-0116-0-1-806)" and "Capital Outlay, Canal Zone Government (38-0116-0-1-806)" shall be covered into the general fund of the Treasury, and any appropriations to which expenditures under such accounts have been chargeable before such effective date are repealed. The Commission may, to the extent of funds available to it, pay claims or make payments chargeable to such accounts, upon proper audit of such claims of payments.[11]

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[11] This sentence was added by Public Law 100-203 (101 Stat. 1330-274).

PANAMA CANAL REVOLVING FUND

Sec. 1302.[12] (a)(1) There is established in the Treasury of the United States a revolving fund to be known as the "Panama Canal Revolving Fund". The Panama Canal Revolving Fund shall, subject to subsection (c), be available to the Commission to carry out the purposes, functions, and powers authorized by this Act, including for——

(A) the hire of passenger motor vehicles and aircraft;

(B) uniforms or allowances therefor, as authorized by sections 5901 and 5902 of title 5, United States Code;

(C) official receptions and representation expenses of the Board, the Secretary of the Commission, and the Administrator;

(D) the operation of guide services;

(E) a residence for the Administrator;

(F) disbursements by the Administrator for employee and community projects; and

(G) the procurement of expert and consultant services as provided in section 3109 of title 5, United States Code.

(2) On the effective date of the Panama Canal Revolving Fund Act——

(A) the Panama Canal Commission Fund shall be terminated and the unappropriated balance, including undeposited receipts as of the close of business on the day before the effective date of the Panama Canal Revolving Fund Act, shall be transferred to the Panama Canal Revolving Fund;

(B) the unexpended balance of appropriations to the Commission, as of the close of business on the day before the effective date of the Panama Canal Revolving Fund Act, shall be transferred to the Panama Canal Revolving Fund, and such amounts including amounts appropriated for capital expenditures, shall remain available until expended;

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[12] Sec. 1302 was retitled and subsecs. (a) through (e) were added by sec. 5422 of the Omnibus Budget Reconciliation Act of 1987 (Public Law 100–203, 101 Stat. 1330–271) in lieu of the following:

"Sec. 1302. (a) On the effective date of this Act, the account appearing on the books of the United States Government as the 'Panama Canal Company Fund (38–4060–0–3–403)' shall be terminated, and any unexpended balances under such account as of that date shall be covered into the Treasury in an account to be known as the 'Panama Canal Commission Fund'.

"(b) On or after the effective date of this Act, tolls for the use of the Panama Canal and all other receipts of the Commission that, before such effective date, would have been credited to the account appearing on the books of the Government as the 'Panama Canal Company Fund (38–4060–0–3–403)' shall be deposited in the Treasury in the Panama Canal Commission Fund; except that the part of the tolls and other receipts that covers interest on the investment of the United States in the Panama Canal pursuant to section 1602 and 1603 of this Act shall be deposited into the Treasury as miscellaneous receipts.

"(c)(1) No funds may be appropriated to or for the use of the Commission, nor may any funds to be obligated or expended by the Commission for any fiscal year, unless such appropriation, obligation, expenditure has been specifically authorized by law.

"(2) No funds may be appropriated to or for the use of the Commission for any fiscal year in excess of (A) the amount to revenues deposited in the Panama Canal Commission Fund during such fiscal year, as such amount is estimated by the Secretary of Defense and certified by the Comptroller General of the United States at the time the budget request for the Commission for such fiscal year is submitted to the Congress, plus (B) the amount of revenues deposited in such Fund prior to such fiscal year and remaining unexpended at the beginning of such fiscal year. Not later than thirty days after the end of such fiscal year, the Secretary of the Treasury shall report to the Congress the actual amount of revenue deposited in the Panama Canal Commission Fund during such fiscal year.

"(d) The Commission may, to such extent or in such amounts as are provided in advance in appropriation Acts, enter into contracts in order to carry out its functions."

(C) the assets and liabilities recorded before such effective date under the "Panama Canal Commission Fund" shall be recorded under the Panama Canal Revolving Fund; and

(D) the Panama Canal Emergency Fund shall be terminated and the remaining balance shall be transferred to the Panama Canal Revolving Fund.

(b) Upon completion of the transfers of funds under subsection (a)——

(1) amounts attributable to interest on the investment of the United States in the Panama Canal which accrued before January 1, 1986, shall be transferred from the Panama Canal Revolving Fund to the general fund of the Treasury; and

(2) such amounts as were appropriated to the Commission in the fiscal year which ended September 30, 1980, and for which the Commission has not reimbursed the general fund of the Treasury, shall be transferred to the general fund of the Treasury.

(c)(1) There shall be deposited in the Panama Canal Revolving Fund, on a continuing basis, toll receipts and all other receipts of the Commission. Except as provided in section 1303 and subject to paragraph (2), no funds may be obligated or expended by the Commission in any fiscal year unless such obligation or expenditure has been specifically authorized by law.

(2) No funds may be obligated or expended by the Commission in any fiscal year for administrative expenses except to the extent or in such amounts as are provided in appropriations Acts.

(3) No funds may be authorized for the use of the Commission, or obligated or expended by the Commission in any fiscal year in excess of——

(A) the amount of revenues deposited in the Panama Canal Revolving Fund during such fiscal year, plus

(B) the amount of revenues deposited in the Panama Canal Revolving Fund before such fiscal year and remaining unexpended at the beginning of such fiscal year.

Not later than 30 days after the end of each fiscal year, the Secretary of the Treasury shall report to the Congress the amount of revenues deposited in the Panama Canal Revolving Fund during such fiscal year.

(d) With the approval of the Secretary of the Treasury, the Commission may deposit amounts in the Panama Canal Revolving Fund in any Federal Reserve bank, any depository for public funds, or in such other places and in such other manner as the Commission and the Secretary may agree.

(e) The Committee on Appropriations of each House of Congress shall review the annual budget of the Commission, including operations and capital expenditures.

(f)(1) It is the sense of the Congress that the additional costs resulting from implementation of the Panama Canal Treaty of 1977 and related agreements should be kept to the absolute minimum level. To this end, the Congress declares that the direct appropriated costs of implementation to be borne by the taxpayers over the life of such Treaty should be kept to a level no greater than the March 1979 estimate of those costs ($870,700,000) presented to the Congress by the executive branch during consideration of this Act by the Congress, less personnel retirement costs of $205,000,000, which were subtracted and charged to tolls, therefore resulting in the net taxpayer cost of approximately $665,700,000, plus appropriate adjustment for inflation.

(2) It is further the sense of the Congress that the actual costs of implementation be consistent with the obligations of the United States to operate the Panama Canal safely and efficiently and keep it secure.

EMERGENCY AUTHORITY

Sec. 1303.[13] If authorizing legislation described in section 1302(c)(1) has not been enacted for a fiscal year, then the Commission may withdraw funds from the Panama Canal Revolving Fund in order to defray emergency expenses and to ensure the continuous, efficient, and safe operation of the Panama Canal, including expenses for capital projects. The authority of this section may not be used for administrative expenses. The authority of this section may be exercised only until authorizing legislation described in section 1302(c)(1) is enacted, or for a period of 24 months after the end of the fiscal year for which such authorizing legislation was last enacted, whichever occurs first. Within 60 days after the end of any calendar quarter in which expenditures are made under this section, the Commission shall report such expenditures to the appropriate committees of the Congress.

BORROWING AUTHORITY [14]

Sec. 1304. (a) The Panama Canal Commission may borrow from Treasury, for any of the purposes of the commission, not more than $100,000,000 outstanding at any time. For this purpose, the Commission may issue to the Secretary of the Treasury its notes or other obligations—

(1) which shall have maturities (of not later than December 31, 1999) agreed upon by the Commission and the Secretary of the Treasury, and

(2) which may be redeemable at the option of the Commission before maturity.

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[13] Sec. 1303 was retitled and substantially amended by sec. 5423 of the Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203, 101 Stat. 1330-273). Sec. 1303 previously read as follows:

"EMERGENCY FUND

"(a) On the effective date of this Act, the Secretary of the Treasury shall establish and thereafter shall maintain in the treasury a fund to be known as the 'Panama Canal Emergency Fund.' There are authorized to be appropriated for deposit in such Fund (1) for the fiscal year beginning on October 1, 1979, $40,000,000, and (2) for any fiscal year beginning on or after October 1, 1980, such additional sums as may be specifically authorized by law for such fiscal year.

"(b) The Commission may make withdrawals from the Panama Canal Emergency Fund by check in order to defray emergency expenses and to insure the continuous, efficient, and safe operation of the Panama Canal, if funds appropriated for the operation and maintenance of the Canal are insufficient for such purposes. Any withdrawal from such Fund to cover increased costs attributable to unprogrammed increases in traffic may not be made in amounts greater than the revenues from such increased traffic. Such Fund shall not be available for payments to Panama under Article XIII of the Panama Canal Treaty of 1977. Any withdrawal from such fund or expenditure made under this subsection shall be reported forthwith by the Commission to the Congress and to the Office of Management and Budget."

[14] Sec. 1304 was added by sec. 5424 of the Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203, 101 Stat. 1330-273).

(b) Amounts borrowed under this section shall not be available for payments to Panama under Article XIII of the Panama Canal Treaty of 1977.

(c) Amounts borrowed under this section shall increase the investment of the United States in the Panama Canal, and repayment of such amount shall decrease such investment.

(d) The Commission shall report to the Congress and to the Office of Management and Budget on each exercise of borrowing authority under this section.

Subchapter II—Accounting Policies and Audits

ACCOUNTING POLICIES

Sec. 1311. (a) The Commission shall establish and maintain its accounts pursuant to the Accounting and Auditing Act of 1950 (31 U.S.C. 65 et seq.) and the provisions of this chapter. Such accounts shall specify all revenues received by the Commission, including tolls for the use of the Panama Canal, expenditures for capital replacement, expansion, and improvement, and all costs of maintenance and operation of the Panama Canal and of its complementary works, installations, and equipment, including depreciation, payments to the Republic of Panama under the Panama Canal Treaty of 1977, and interest on the investment of the United States calculated in accordance with section 1603 of this Act.

(b) The Commission may issue regulations establishing the basis of accounting for the assets which are made available for the use of the Commission. Such regulations may provide for depreciation of the net replacement value of the assets which will ultimately require replacement to maintain the service capacity of the Panama Canal. Such regulations may also provide the depreciation of such assets be recorded ratably over their service lives.

REPORTS

Sec. 1312. The Commission shall, not later than January 31 of each year, submit to the President and the Congress a financial statement and a complete report with respect to the maintenance and operation of the Panama Canal during the preceding fiscal year.

AUDIT BY THE COMPTROLLER GENERAL OF THE UNITED STATES

Sec. 1313. (a) Financial transactions of the Commission shall be audited by the Comptroller General of the United States (hereinafter in this Act referred to as the "Comptroller General") pursuant to the Accounting and Auditing Act of 1950 (31 U.S.C. 65 et seq.). In conducting any audit pursuant to such Act, the appropriate representatives of the Comptroller General shall have access to all books, accounts, financial records, reports, files, and other papers, items, or property in use by the Commission and necessary to facilitate such audit, and such representative shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. An audit pursuant to such Act shall first be conducted with respect to the fiscal year in which this Act becomes effective.

(b) The Comptroller General shall, not later than six months after the end of each fiscal year, submit to the Congress a report of the audit conducted pursuant to subsection (a) of this section with respect to such fiscal year. Such report shall set forth the scope of the audit and shall include—

(1) a statement of assets and liabilities, capital, and surplus or deficit, based on the accounts of the Commission established pursuant to this chapter.

(2) a statement of income and expenses,

(3) a statement of sources and application of funds,

(4) a statement listing all direct and indirect costs incurred by the United States in implementing the Panama Canal Treaty of 1977, including the cost of property transferred to the Republic of Panama during each fiscal year, and

(5) such comments and information as the Comptroller General considers necessary to keep the Congress informed of the operations and financial transactions of the Commission, together with such recommendations with respect to such operations and transactions as the Comptroller General considers advisable.

The report shall identify specifically any program, expenditure, or other financial transaction or undertaking observed in the course of the audit which, in the opinion of the Comptroller General, has been carried out or made and has not been authorized by law. The Comptroller General shall submit a copy of each such report to the President, the Secretary of the Treasury, and the Commission.

(c) In conducting the audit and preparing the reports provided for in this section and in carrying out his other responsibilities pursuant to law, the Comptroller General shall, with respect to fiscal year 1980, take into account the problems inherent in converting the existing accounting system of the Panama Canal Company to conform to the requirements established in section 1311 of this Act. Accordingly, the Comptroller General shall take no adverse action with respect to the Commission, nor shall any violation of section 3679 of the Revised Statutes (31 U.S.C. 665) be considered to have taken place, so long as the Commission is in substantial compliance with the requirements of this Act. The Comptroller General shall make such recommendations to the Commission and to the Congress as he may consider appropriate to insure that full compliance with the financial controls provided for in the Accounting and Auditing Act of 1950 (31 U.S.C. 65 et seq.) is achieved promptly.

Subchapter III—Interagency Accounts

INTERAGENCY SERVICES; REIMBURSEMENTS

Sec. 1321. (a) The Commission shall reimburse the Employees' Compensation Fund, Bureau of Employee's Compensation, Department of Labor, for the benefit payments to the Commission's employees, and shall also reimburse other Government departments and agencies for payments of a similar nature made on its behalf.

(b) The Department of Defense shall reimburse the Commission for amounts expended by the Commission in maintaining defense facilities in standby condition for the Department of Defense.

(c) Notwithstanding any other provision of law, funds appropriated (for any fiscal year beginning after September 30, 1979) to or for the use of the Department of Defense, or to any other department or agency of the United States as may be designated by the President to carry out the purposes of this subsection, shall be available for—

(1) conducting the educational and health care activities, including kindergartens and college, carried out by the Canal Zone Government and the Panama Canal Company before the effective date of this Act, and

(2) providing the services related thereto to the categories of persons to which such services were provided before such effective date.

Notwithstanding any other provision of law, the Department of Defense, or any department or agency designated by the President to provide health care services to those categories of persons referred to in this subsection, shall provide such services to such categories of persons on a basis no less favorable than that applied to its own employees and their dependents.

(d) Amounts expended for furnishing services referred to in subsection (c) of this section to persons eligible to receive them, less amounts payable by such persons, shall be fully reimbursable to the department or agency furnishing the services, except to the extent that such expenditures are the responsibility of that department or agency. The appropriations or funds of the Commission shall be available for such reimbursements on behalf of—

(1) employees of the Commission, and

(2) other persons authorized to receive such services who are eligible to receive them pursuant to the Panama Canal Treaty of 1977 and related agreements.

The appropriations or funds of any other department or agency of the United States conducting operations in the Republic of Panama, including the Smithsonian Institution, shall be available for reimbursements on behalf of employees of such department or agency and their dependents.

(e) [15] The appropriations or funds of the Commission, or of any other department or agency of the United States conducting operations in the Republic of Panama, shall be available to defray the cost of—

(1) health care services to elderly or disabled persons who were eligible to receive such services before the effective date of this Act, less amounts payable by such persons, and

(2) educational services provided by schools in the Republic of Panama, which are not operated by the United States, to employees of the Commission who are citizens of the United States and persons who were receiving such services at the expense of the Canal Zone Government before the effective date of this Act.

(f) For purposes of the reimbursement of the United States by the Republic of Panama for the salaries and other employment costs of employees of the Commission who are assigned to assist the

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[15] Subsec. (c) was comprehensively amended and restated by sec. 5(c) of Public Law 99-223 (99 Stat. 1739).

Republic of Panama in the operation of activities which are transferred to that Government as a result of any provision of the Panama Canal Treaty of 1977 and related agreements which reimbursement is provided for in paragraph 8 of Article 10 of that Treaty, the Commission shall be deemed to be the United States of America.

(g) Notwithstanding any other provision of law, the President, through the appropriate department or agency of the United States, shall, until January 1, 2000, operate the educational institution known as the "Canal Zone College". Such institution shall continue to provide, insofar as practicable, the level of services which it offered immediately before the effective date of this Act.

(h) [16] Except as expressly provided in this Act, funds available to the Panama Canal Commission may not be made available to any other agency as that term is defined in section 551 of title 5, United States Code, nor may funds be authorized or appropriated for any function other than Panama Canal Commission activities.

Subchapter IV—Postal Matters

POSTAL SERVICE

Sec. 1331. The postal service established and governed by chapter 73 of title 2 of the Canal Zone Code shall be discontinued on October 1, 1979.

(b) The provisions of chapter 73 of such title 2 relating to postal-savings deposits, postal-savings certificates, postal money orders, and the accounting for funds shall continue to apply for the purpose of meeting the obligations of the United States concerning outstanding postal savings and money orders and disposition of funds.

(c) The Commission shall take possession of and administer the funds of the postal service referred to in subsection (a) and this section and shall assume its obligation. The Commission and the United States Postal Service may enter into agreements for the transfer of funds of property and the assumption of administrative rights or responsibilities with respect to the outstanding obligations of the postal service referred to in subsection (a) of this section. Any transfer or assumption (including any agreement for such transfer or assumption) pursuant to this subsection shall be effective only to such extent or in such amounts as are provided in advance in appropriate Acts.

(d) Mail addressed to the Canal Zone from or through the continental United States may be routed by the United States Postal Service to the military post offices of the United States Forces in the Republic of Panama. Such military offices shall provide the required directory services and shall accept such mail to the extent permitted under the Panama Canal Treaty of 1977 and related agreements. The Commission shall furnish personnel, records, and other services to such military to assure wherever appropriate the distribution, rerouting, or return of such mail.

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[16] Sec. 8 of Public Law 100-705 added subsec. (h).

(e)(1) The second sentence of section 403(a) of title 39, United States Code, is amended by striking out "Except as provided in the Canal Zone Code, the" and inserting in lieu thereof "The".

(2) Section 340(b) of such title is amended—

(A) by inserting "or" before "the Virgin Islands"; and

(B) by striking out "or the Canal Zone,".

(3)(A) Section 3402 of such title repealed.

(B) the table of sections for chapter 34 of title 39, United States Code, is amended by repealing the item relating to section 3402.

(4) Section 3682(b)(5) of such title is amended by striking out "the Canal Zone and".

Subchapter V—Accounts With the Republic of Panama

PAYMENTS TO THE REPUBLIC OF PANAMA

Sec. 1341. (a) The Commission shall pay to the Republic of Panama those payments required under paragraph 5 of Article III and paragraph 4 of Article XIII of the Panama Canal Treaty of 1977. Payments made under paragraph 5 of Article III of such Treaty shall be audited annually by the Comptroller General and any overpayment, as determined in accordance with Understanding (1) incorporated in the Resolution of Ratification of the Panama Canal Treaty (adopted by the United States Senate on April 18, 1978), for the service described in that paragraph which are provided shall be refunded by the Republic of Panama or set off against amounts payable by the United States to the Republic of Panama under paragraph 5 of Article III of the Panama Canal Treaty of 1977.

(b) In determining whether operating revenues exceed expenditures for the purpose of payments to the Republic of Panama under paragraph 4(c) of Article XIII of the Panama Canal Treaty of 1977, such operating revenues in a fiscal period shall be reduced by (1) all costs of such period as shown by the accounts established pursuant to section 1311 of this Act, and (2) the cumulative sum from prior years (beginning with the year in which the Panama Canal Treaty of 1977 enters into force) of any excess of costs of the Panama Canal Commission over operating revenues.

(c) The President shall not accede to any interpretation of paragraph 1 of Article IX of the Panama Canal Treaty of 1977 which would permit the Republic of Panama to tax retroactively organizations and businesses operating, and citizens of the United States living, in the Canal Zone before the effective date of this Act.

(d) Any accumulated unpaid balance under paragraph 4(c) of Article XIII of the Panama Canal Treaty of 1977 at the termination of such Treaty shall be payable only to the extent of any operating surplus in the last year of the Treaty's duration, and nothing in such paragraph may be construed as obligating the United States to pay after the date of the termination of the Treaty any such unpaid balance which has accrued before such date.

(e) As provided in section 1602(b) of this Act, tolls shall not be prescribed at rates calculated to cover payments to the Republic of Panama pursuant to paragraph 4(c) of Article XIII of the Panama Canal Treaty of 1977. Moreover, no payments may be made to the

Republic of Panama under paragraph 4(c) of Article XIII of the Panama Canal Treaty of 1977 unless unexpended funds are used to pay all costs of operation and maintenance of the canal, including but not limited to (1) operating expenses determined in accordance with generally accepted accounting principles, (2) payments to the Republic of Panama under paragraphs 4(a) and 4(b) of such Article XIII and under paragraph (5) of Article III of such Treaty, (3) amounts in excess of depreciation and amortization which are programmed for plant replacement, expansion, and improvements, (4) payments to the Treasury of the United States under section 1603 of this Act, (5) reimbursement to the Treasury of the United States for costs incurred by other departments and agencies of the United States in providing educational, health, and other services to the Commission, its employees and their dependents, and other categories of persons in accordance with section 1321 of this Act, (6) any costs of Treaty implementation associated with the maintenance and operation of the Panama Canal, and (7) amounts programmed to meet working capital requirements.[17]

(f) The prohibitions contained in this section and in sections 1302(c) and 1503 of this Act shall apply notwithstanding any other provisions of law authorizing transfers of funds between accounts, reprogramming of funds, use of funds for contingency purposes, or waivers of prohibitions.

(g)[18] Notwithstanding any other provision of law, no reduction under any order issued pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985 shall apply to the Commission if the implementation of such an order would result in a payment to the Republic of Panama under paragraph 4(c) of Article XIII of the Panama Canal Treaty of 1977 and this section.

TRANSACTIONS WITH THE REPUBLIC OF PANAMA

Sec. 1342. The Commission may, on a reimbursable basis, provide to the Republic of Panama materials, supplies, equipment, work, or services, including water and electric power, requested by the Republic of Panama, at such rates as may be agreed upon by the Commission and the Republic of Panama. Payment for such materials, supplies, equipment, work, or services may be made by direct payment by the Republic of Panama to the Commission or by offset against amounts due the Republic of Panama by the United States.

DISASTER RELIEF

Sec. 1343. If an emergency arises because of disaster or calamity by flood, hurricane, earthquake, fire, pestilence, or like cause, not foreseen or otherwise provided for, and occurring in the Republic of Panama in such circumstances as to constitute an actual or potential hazard to health, safety, security, or property in the areas and installations made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements, the Commission may expend funds available to the Commission for such purpose, and utilize or furnish materials, supplies, equipment and services for relief, assistance, and protection.

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[17] Sec. 5426 of Public Law 100-203 (101 Stat. 1330-274) added point (7).

[18] Sec. 6 of Public Law 99-368 (100 Stat. 776) added subsec. (g).

CONGRESSIONAL RESTRAINTS ON PROPERTY TRANSFER AND TAX EXPENDITURES

Sec. 1344. (a) The Congress enacts this section in the exercise of its authority under Article IV, section 3, clause 2 of the Constitution of the United States to dispose of and make necessary rules and regulations with respect to property of the United States.

(b) Prior to the transfer of property of the United States located in the Republic of Panama to the Republic of Panama pursuant to section 1504 of this Act, the President shall formally advise the Government of Panama that—

(1) in fulfilling its obligations under the Panama Canal Treaty of 1977, the United States shall make no payments to the Republic of Panama derived from tax revenues of the United States;

(2) the United States retains full discretion and authority to determine whether and the extent to which tax revenues of the United States may be expended in exercising United States rights and carrying out United States responsibilities under the Panama Canal Treaty of 1977 and related agreements;

(3) no tax revenues of the United States shall be made available for obligations and expenditures after the effective date of this Act for purposes of implementing the Panama Canal Treaty of 1977 and related agreements, unless hereafter specifically approved by the Congress through the authorization and appropriation process;

(4) the total amount expended by the Commission from funds available to or for the use of the Commission shall not exceed the total amount deposited in the Panama Canal Revolving Fund; [19] and

(5) the foregoing paragraphs of this subsection do not apply to expenditures made by the United States in fulfilling United States obligations to transfer the remains of our honored dead from Mount Hope Cemetery in the former Canal Zone to an appropriate and dignified place in accordance with Reservation 3 to the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal.

CHAPTER 4—CLAIMS FOR INJURIES TO PERSONS OR PROPERTY

Subchapter I—General Provisions

SETTLEMENT OF CLAIMS GENERALLY

Sec. 1401. (a) Subject to the provisions of this chapter, the Commission may adjust and pay claims for injury to, or loss of, property or for personal injury or death, arising from the operation of the Panama Canal or related facilities and appurtenances.

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[19] The words "available" and "Revolving Fund" were added in lieu of "appropriated" and "Commission Fund" by sec. 5428 of Public Law 100-203 (101 Stat. 1330-274).

(b)[20] The Commission may pay not more than $50,000 on any claim described in subsection (a).

(c) An award made to a claimant under this section shall be payable out of any moneys appropriated for or made available to the Commission. The acceptance by the claimant of the award shall be final and conclusive on the claimant, and shall constitute a complete release by the claimant of his claim against the United States and against any employee of the United States acting in the course of his employment who is involved in the matter giving rise to the claim.

(d) Except as provided in section 1416 of this Act, no action for damages on claims cognizable under this chapter shall be against the United States or the Commission, and no such action shall lie against any officer or employee of the United States. Neither this section nor section 1416 of this Act shall preclude actions against officers or employees of the United States for injuries resulting from their acts outside the scope of their employment or not in the line of their duties, or from their acts committed with the intent to injure the person or property of another.

(e) The provisions of section 1346(b) of title 28, United States Code, and the provisions of chapter 171 of such title shall not apply to claims cognizable under this chapter.

Subchapter II—Vessel Damage

INJURIES IN LOCKS OF CANAL

Sec. 1411. (a) Subject to subsection (b) of this section, the Commission shall promptly adjust and pay damages for injuries to vessels, or to the cargo, crew, or passengers of vessels, which may arise by reason of their passage through the locks of the Panama Canal [21] when the injury was proximately caused by negligence or fault on the part of an officer or employee of the United States acting within the scope of his employment and in the line of his duties in connection with the operation of the Canal. If the negligence or fault of the vessel, master, crew, or passengers proximately contributed to the injury, the award of damages shall be diminished in proportion to the negligence to fault attributable to the vessel, master, crew, or passengers. Damages may not be allowed and paid for injuries to any protrusion beyond any portion of the hull of a vessel, whether it is permanent or temporary in character. A vessel is considered to be passing through the locks of the Canal, under the control of officers or employees of the United States, from the time the first towing line is made fast on board before entrance into the locks and until the towing lines are cast off upon, or immediately prior to, departure from the lock chamber. No payment for damages on a claim may be made under this section unless the claim is filed with the commission within 2 years after the date of the injury, or within 1 year after the date of the enactment of the Panama Canal Amendments Act of 1985, whichever is later.[22]

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[20] Subsec. (b) was amended and restated by sec. 5417(a) of title V of the Omnibus Reconciliation Act of 1987 (Public Law 100-203, 101 Stat. 1330-271).

[21] The language from this point to the end of the sentence was added by sec. 2(a) of Public Law 99-209 (99 Stat. 1716). Sec. 2(a) also deleted a sentence previously appearing at this point which read: "Damages may not be paid where the injury was proximately caused by the negligence or fault of the vessel, master, crew, or passengers."

(b) [23] (1) With respect to a claim under subsection (a) for damages for injuries to a vessel or its cargo, if, at the time the injuries were incurred, the navigation or movement of the vessel was not under the control of a Panama Canal pilot, the Commission may pay not more than $50,000 on the claim,[24] unless the injuries were caused by another vessel under the control of a Panama Canal pilot.

(2) The provisions of subsections (c) through (e) of section 1401 of this Act shall apply to any claim described in paragraph (1).

INJURIES OUTSIDE LOCKS

Sec. 1412. The Commission shall promptly adjust and pay damages for injuries to vessels, or to the cargo, crew, or passengers of vessels which may arise by reason of their presence in the Panama Canal, or waters adjacent thereto, other than the locks, when the injury was proximately caused by negligence or fault on the part of an officer or employee of the United States acting within the scope of his employment and in the line of his duties in connection with the operation of the Canal. No payment for damages on a claim may be made under this section unless the claim is filed with the Commission within 2 years after the date of the injury, or within 1 year after the date of the enactment of the Panama Canal Amendments Act of 1985, whichever is later.[25] If the negligence or fault of the vessel, master, crew, or passengers proximately contributed to the injury, the award of damages shall be diminished in proportion to the negligence or fault attributable to the vessel, master, crew, or passengers. In the case of a vessel which is required by or pursuant to regulations prescribed pursuant to section 1801 of this Act to have a Panama Canal pilot on duty aboard, damages may not be adjusted and paid for injuries to the vessel, or its cargo, crew, or passengers, incurred while the vessel was underway and in motion, unless at the time the injuries were incurred the navigation or movement of the vessel was under the control of a Panama Canal pilot.

MEASURE OF DAMAGES GENERALLY

Sec. 1413. In determining the amount of the award of damages for injuries to a vessel for which the Commission is determined to be liable there may be included—

(1) the actual or estimated cost of repairs;

(2) charter hire actually lost by the owners, or charter hire actually paid, depending upon the terms of the charter party, for the time the vessel is undergoing repairs;

(3) maintenance of the vessel and wages of the crew, if they are found to be actual additional expenses or losses incurred outside of the charter hire; and

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[22] This sentence was added by sec. 2(a) of Public Law 99-209 (99 Stat. 1716.)

[23] Subsec. (b) was added by sec. 2(b) of Public Law 99-209 (99 Stat. 1716).

[24] The words "pay not more than $50,000 on the claim" were substituted in lieu of "adjust and pay the claim only if the amount of the claim does not exceed $50,000" by sec. 5417(b) of Public Law 100-203 (101 Stat. 1330-271).

[25] This sentence was added by sec. 2(c) of Public Law 99-209 (99 Stat. 1716).

(4) other expenses which are definitely and accurately shown to have been incurred necessarily and by reason of the accident or injuries.

Agent's fees, or commissions, or other incidental expenses of similar character, or any items which are indefinite, indeterminable, speculative, or conjectural may not be allowed. The Commission shall be furnished such vouchers, receipts, or other evidence as may be necessary in support of any item of a claim. If a vessel is not operated under charter but by the owner directly, evidence shall be secured if available as to the sum for which vessels of the same size and class can be chartered in the market. If the charter value cannot be determined, the value of the vessel to its owners in the business in which it was engaged at the time of the injuries shall be used as a basis for estimating the damages for the vessel's detention; and the books of the owners showing the vessel's earnings about the time of the accident or injuries shall be considered as evidence of probable earnings during the time of detention. If the books are unavailable, such other evidence shall be furnished as may be necessary.

DELAYS FOR WHICH NO RESPONSIBILITY IS ASSUMED

Sec. 1414. The Commission is not responsible, and may not consider any claim, for demurrage or delays caused by—

(1) landslides or other natural causes;

(2) necessary construction or maintenance work of Canal locks, terminals, or equipment;

(3) obstruction arising from accidents;

(4) time necessary for admeasurement;

(5) congestion of traffic;

(6) [26] investigation of a marine accident that is conducted within 24 hours after the accident occurs, except that any liability of the Commission beyond that 24-hour period shall be limited to the extent to which the accident was caused, or contributed to, by the negligence of an employee of the Commission acting within the scope of the employee's official duties; or

(7) except as specially set forth in this subchapter, any other cause.

SETTLEMENT OF CLAIMS

Sec. 1415.[27] The Commission, by mutual agreement, compromise, or otherwise, may adjust and determine the amounts of the respective awards of damages pursuant to this subchapter. Such amounts may be paid only out of money appropriated or allotted for the maintenance and operation of the Panama Canal. Acceptance by a claimant of the amount awarded to him shall be deemed to be in full settlement of such claim against the Government of the United States.

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[26] Subsec. 6 was comprehensively amended and restated by sec. 3 of Public Law 99-209 (99 Stat. 1717).

[27] Sec. 4 of Public Law 99-190 (99 Stat. 1717), struck out subsec. (b) of sec. 1415 and dropped the para. designation for subsec. (a). Subsec. (b) previously read as follows:

"(b) The Commission shall not adjust and pay any claim for damages for injuries arising by reason of the presence of the vessel in the Panama Canal or adjacent waters outside the locks where the amount of the claim exceeds $120,000 but shall submit the claim to the Congress in a special report containing the material facts and the recommendation of the Commission thereon."

ACTIONS ON CLAIMS

Sec. 1416. A claimant for damages pursuant to section 1411(a) or 1412 of this Act who considers himself aggrieved by the findings, determination, or award of the Commission in reference to his claim may bring an action on the claim against the Commission in the United States District Court for the Eastern District of Louisiana. Subject to the provisions of this chapter and of applicable regulations issued pursuant to section 1801 of this Act relative to navigation of the Panama Canal and adjacent waters, such actions shall proceed and be heard by the court without a jury according to the principles of law and rules of practice obtaining generally in like cases between a private party and a department or agency of the United States. Any judgment obtained against the Commission in an action under this subchapter may be paid out of money appropriated or allotted for the maintenance and operation of the Panama Canal. An action for damages cognizable under this section shall not otherwise lie against the United States or the Commission, nor in any other court, than as provided in this section; nor may it lie against any officer or employee of the United States or of the Commission. Any action on a claim under this section shall be barred unless the action is brought within one year after the date on which the Commission mails to the claimant written notification of the Commission's final determination with respect to the claim, or within one year after the date of the enactment of the Panama Canal Amendments Act of 1985, whichever is later. Attorneys appointed by the Commission shall represent the Commission in any action arising under this subchapter.[28]

INVESTIGATION OF ACCIDENT OR INJURY GIVING RISE TO CLAIM

Sec. 1417. Notwithstanding any other provision of law, a claim may not be considered under this subchapter, or an action for damages lie thereon, unless, prior to the departure from the Panama Canal of the vessel involved—

(1) an investigation by the competent authorities of the accident or injury, giving rise to the claim has been completed; and

(2) the basis for the claim has been laid before the Commission.

BOARD OF LOCAL INSPECTORS

Sec. 1418. (a) The President shall provide for the establishment of a Board of Local Inspectors of the Panama Canal Commission which shall perform, in accordance with regulations prescribed by the President—

(1) the investigations required by section 1417 of this Act; and

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[28] The final two sentences of sec. 1416 were added by sec. 5(3) of Public Law 99-190 (99 Stat. 1717).

(2) such other duties with respect to marine matters as may be assigned by the President.

(b) In conducting any investigation pursuant to subsection (a) of this section, the Board of Local Inspectors established pursuant to such subsection may summon witnesses, administer oaths, and require the production of books and papers necessary for such investigation.

INSURANCE

Sec. 1419.[29] The Commission is authorized to purchase insurance to protect the Commission against major and unpredictable revenue losses or expenses arising from catastrophic marine accidents or other unpredictable events.[30]

CHAPTER 5—PUBLIC PROPERTY

ASSETS AND LIABILITIES OF PANAMA CANAL COMPANY

Sec. 1501. All property and other assets of the Panama Canal Company shall revert to the United States on the effective date of this Act, and, except as otherwise provided by law, the United States shall assume the liabilities, including contractual obligations, of the Panama Canal Company then outstanding. The Commission may use such property, facilities, and records of the Panama Canal Company as are necessary to carry out its functions.

TRANSFERS AND CROSS-SERVICING BETWEEN AGENCIES

Sec. 1502. (a) In the interest of economy and maximum efficiency in the utilization of property and facilities of the United States, there are authorized to be transferred between departments and agencies of the United States, with or without reimbursement, such facilities, buildings, structures, improvement, stock, and equipment located in the Republic of Panama, and used for their activities therein, as may be mutually agreed upon by the departments and agencies involved and approved by the President of the United States or his designee.

(b) The Commission may enter into cross-serving agreements with any other department or agency of the United States for the use of facilities, furnishing of services, or performance of functions.

(c) The Commission, any department or agency of the United States, or any United States court in the Republic of Panama is authorized to transfer to the Government of the Republic of Panama any record of such Commission, department, agency, or court, or copy thereof, including any record acquired from the Canal Zone Government or Panama Canal Company (including any vital statistics record), to any other department, agency, or court of the United States if such action is determined by the Commission, the head of the department or agency concerned, or the judge of the court concerned to be in the interest of the United States. Transfer of any record or copy thereof under this section to the Government of the Republic of Panama shall be made under the coordination of and with the approval of the United States Ambassador to the Republic of Panama.

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[29] 22 U.S.C. 3779.

[30] The words "or other unpredictable events" were added by sec. 5414 of title V of the Omnibus Budget Reconciliation Act of 1987 (Public Law 100–203, 101 Stat. 1330–270).

(d) The provisions of this section shall apply to the Smithsonian Institution.

DISPOSITION OF PROPERTY OF THE UNITED STATES

Sec. 1503. No property of the United States located in the Republic of Panama may be disposed of except pursuant to law enacted by the Congress.

TRANSFER OF PROPERTY TO PANAMA

Sec. 1504. (a)(1) On the date on which the Panama Canal Treaty of 1977 enters into force, the Secretary of State may convey to the Republic of Panama the Panama Railroad and such property located in the area which, immediately before such date, comprised the Canal Zone and which is not within the land and water areas the use of which is made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements.

(2) Property transferred pursuant to paragraph (1) of this subsection may not include buildings and other facilities, except housing, located outside such areas, the use of which is retained by the United States pursuant to the Panama Canal Treaty of 1977 and related agreements.

(b) With respect to the transfer of all other property (not described in subsection (a)(1) of this section) to be transferred in accordance with the terms of the Panama Canal Treaty of 1977 and related agreements, the Secretary of State may convey such property from time to time in accordance with the terms of such Treaty and related agreements. Before [31] the transfer of any such property, the President must submit a written report to the Congress—

(1) precisely identifying and describing the particular property to be transferred;

(2) certifying the state of compliance by the Republic of Panama with such Treaty and related agreements; and

(3) setting forth the reasons for the conveyance being made at the particular time.

(c) The Panama Canal, and such other property referred to in paragraph 2(d) of Article XIII of the Panama Canal Treaty of 1977 that has not been previously transferred in accordance with paragraphs 2(a), 2(b), and 2(c) of such Article, shall not be transferred to the Republic of Panama prior to December 31, 1999.

CHAPTER 6—TOLLS FOR USE OF THE PANAMA CANAL

PRESCRIPTION OF MEASUREMENT RULES AND RATES OF TOLLS

Sec. 1601. (a) The President is authorized, subject to the provisions of this chapter, to prescribe and from time to time change—

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[31] Sec. 7 of Public Law 99-233 struck the language "at least 180 days" at the beginning of this sentence.

(1) the rules for the measurement of vessels for the Panama Canal; and

(2) the tolls that shall be levied for the use of the Canal.

(b) Such rules of measurement and tolls prevailing on the effective date of this Act shall continue in effect until changed as provided in this chapter.

BASES OF TOLLS

Sec. 1602. (a) Tolls on merchant vessels, army and navy transports, colliers, tankers, hospital ships, supply ships, and yachts shall be based on net vessel tons of one hundred cubic feet each of actual earning capacity determined in accordance with the rules for the measurement of vessels for the Panama Canal, and tolls on other floating craft shall be based on displacement tonnage. The tolls on vessels in ballast without passengers or cargo may be less than the tolls for vessels with passengers or cargo.

(b) Tolls shall be prescribed at rates calculated to produce revenues to cover as nearly as practicable all costs of maintaining and operating the Panama Canal, together with the facilities and appurtenances related thereto, including unrecovered costs incurred on or after the effective date of this Act, interest, depreciation, working capital,[32] payments to the Republic of Panama pursuant to paragraph 5 of Article III and paragraph 4 (a) and (b) of Article XIII of the Panama Canal Treaty of 1977, and capital for plant replacement, expansion, and improvements. Tolls shall not be prescribed at rates calculated to produce revenues sufficient to cover payments to the Republic of Panama pursuant to paragraph 4(c) of Article XIII of the Panama Canal Treaty of 1977.

(c) Vessels operated by the United States, including vessels of war and auxiliary vessels, and ocean-going training ships owned by the United States and operated by State nautical schools, shall pay tolls.

(d) The levy of tolls is subject to the provisions of section 1 of Article III of the treaty between the United States of America and Great Britain signed November 18, 1901, of Article I of the treaty between the United States of America and the Republic of Colombia signed April 6, 1914, and of Articles II, III, and VI of the Treaty Concerning Permanent Neutrality and Operation of the Panama Canal, between the United States of America and the Republic of Panama, signed September 7, 1977.

CALCULATION OF INTEREST

Sec. 1603. For purposes of sections 1311 and 1602 of this Act, interest shall be computed, at the rate determined by the Secretary of the Treasury, on the investment of the United States in the Panama Canal as shown in the accounts of the Panama Canal Company at the close of business on the day preceding the effective date of this Act, and as adjusted in accordance with subsections (b) and (c) of this section. Capital investment for interest purposes shall not include any interest during construction.

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[32] The words "working capital" were added by sec. 5427 of Public Law 100-203 (101 Stat. 1330-274).

(b) The investment of the United States described in subsection (a) of this section—

(1) shall be increased by—

(A) the amount of expenditures from the Panama Canal Revolving Fund [33], and

(B) the value of property transferred to the Commission by any other department or agency of the United States, as determined in accordance with subsection (c) of this section; and

(2) shall be decreased by—

(A) [34] the amount of the funds deposited in the Panama Canal Revolving Fund,

(B) the value of property transferred to the Republic of Panama pursuant to this or any other Act on or after the date on which the Panama Canal Treaty of 1977 enters into force, and

(C) the value of property transferred by the Commission to any other department or agency of the United States.

(c) The value of property transferred to the Commission by any other department or agency of the United States shall be determined by the Director of the Office of Management and Budget. In computing such value, such Director shall give due consideration to the cost and probable earning power of the transferred property, or the usable value to the Commission if clearly less than cost, and shall make adequate provisions for depreciation, obsolescence, and other determinable decreases in value. Insofar as practicable, the value of such transferred property shall exclude any portion of such value properly allocable to national defense.

(d) [35] The Panama Canal Commission shall pay to the Treasury of the United States interest on the investment of the United States, as determined under this section. Such interest shall be deposited in the general fund of the Treasury.

PROCEDURES

Sec. 1604. (a) The Commission shall publish in the Federal Register notice of any proposed change in the rules of measurement or rates of tolls referred to in section 1601(a) of this Act. The Commission shall give interested parties an opportunity to participate in the proceedings through submission of written data, views, or arguments, and participation in a public hearing to be held not less than 30 days after the date of publication of the notice. The notice shall include the substance of the proposed change and a statement of the time, place, and nature of the proceedings. At the time of publication of such notice, the Commission shall make available to the public an analysis showing the basis and justification for the proposed change, which, in the case of a change in rates of tolls, shall indicate the conformity of the existing and proposed rates of tolls with the requirements of section 1602 of this Act, and the Commission's adherence to the requirement for full consideration of the following factors set forth in Understanding (1) incorporated in the Resolution of Ratification of the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal (adopted by the United States Senate on March 16, 1978):

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[33] The words "Panama Canal Revolving Fund" were substituted in lieu of "appropriations to the Commission made on or after the effective date of this Act" by sec. 5425 of title V of Public Law 100-203 (101 Stat. 1330-274).

[34] The words "deposited in the Panama Canal Revolving Fund" were substituted in lieu of "covered into the Panama Canal Commission Fund pursuant to section 1302 of this Act" by sec. 5425 of Public Law 100-203 (101 Stat. 1330-274). Previously, sec. 2 of Public Law 99-195 (99 Stat. 1349) had substituted the words "Panama Canal Commission Fund" in lieu of "Treasury".

[35] Subsec. (d) was added by sec. 5425 of Public Law 100-203 (101 Stat. 1330-274).

(1) the costs of operating and maintaining the Panama Canal;

(2) the competitive position of the use of the Canal in relation to other means of transportation;

(3) the interests of the United States and the Republic of Panama in maintaining their domestic fleets;

(4) the impact of such a change in rates of tolls on the various geographical areas of each of the two countries; and

(5) the interests of both countries in maximizing their international commerce.

(b) After consideration of the relevant matter presented, the Commission may revise the proposed rules of measurement or rates of tolls, as the case may be, except that, in the case of rates of tolls, if such revision proposes rates greater than those originally proposed, a new analysis of the proposed rates shall be made available to the public, and a new notice of the revised proposal shall be published in the Federal Register apprising interested persons of the opportunity to participate further in the proceedings through submission of written data, views, or arguments, and participation in a public hearing to be held not less than 30 days after the date of publication of the new notice. The procedure set forth in this subsection shall be followed for any subsequent revision of the proposed rates of tolls by the Commission which proposes rates higher than those in the preceding proposal.

(c) After the proceedings have been conducted pursuant to subsections (a) and (b) of this section, the Commission shall publish in the Federal Register a notice of the changes in the rules of measurement or rates of tolls, as the case may be, to be recommended to the President.

(d) Upon publication of the notice pursuant to subsection (c) of this section, the Commission shall forward a complete record of the proceedings, with the recommendation of the Commission, to the President for his consideration. The President may approve, disapprove, or modify any or all of the changes in the rules of measurement or rates of tolls recommended by the Commission.

(e) Rules of measurement or rates of tolls prescribed by the President pursuant to this chapter shall take effect on a date prescribed by the President which is not less than 30 days after the President publishes such rules or rates in the Federal Register.

(f) Action to change the rules of measurement for the Panama Canal or the rates of tolls for the use of the Canal pursuant to this chapter shall be subject to judicial review in accordance with chapter 7 of title 5, United States Code.

INTERIM TOLL ADJUSTMENT

Sec. 1605. (a) After the effective date of this section, the Panama Canal Company or the Commission may, without regard to the procedures set forth in section 1604 of this Act for making changes in tolls by the Commission and the President, change the rates of tolls calculated to cover the cost of maintaining and operating the Panama Canal during the fiscal year beginning on October 1, 1979. Such rates shall be calculated in accordance with the provisions of section 1602(b) of this Act. Any such change in rates of tolls shall be subject to the approval of the President whose action in the matter shall be final. Any change in rates of tolls approved by the President shall become effective on a date prescribed by the President.

This section shall take effect on the date of the enactment of this Act.[36]

CHAPTER 7—GENERAL REGULATIONS

AUTHORITY OF PRESIDENT

Sec. 1701. The President may prescribe, and from time to time amend, regulations applicable within the areas and installations made available to the United States for the operation and protection of the Panama Canal pursuant to the Panama Canal Treaty of 1977 and related agreements concerning—

(1) the use of aircraft;
(2) the possession and use of alcoholic beverages;
(3) exclusion and removal of persons; and
(4) health and sanitation.

AUTHORITY OF COMMISSION

Sec. 1702. The Commission may prescribe, and from time to time amend, regulations applicable within the areas and installations made available to the United States for the operation and protection of the Panama Canal pursuant to the Panama Canal Treaty of 1977 and related agreements concerning—

(1) the keeping and impounding of domestic animals;
(2) fire prevention;
(3) the sale or use of fireworks;
(4) the use of roads and highways;
(5) photographing of areas, objects, installations, or structures;
(6) swimming in the Panama Canal and adjacent waters; and
(7) the protection of wildlife, hunting, and fishing.

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[36] September 27, 1979.

CHAPTER 8—SHIPPING AND NAVIGATION

Subchapter I—Operation of Canal

OPERATING REGULATIONS

Sec. 1801. The President may prescribe, and from time to time amend, regulations governing—

(1) the operation of the Panama Canal;

(2) the navigation of the harbors and other waters of the Panama Canal and areas adjacent thereto, including the ports of Balboa and Cristobal;

(3) the passage and control of vessels through the Panama Canal or any part thereof, including the locks and approaches thereto;

(4) pilotage in the Panama Canal or the approaches thereto through the adjacent waters; and

(5) the licensing of officers or other operators of vessels navigating the waters of the Panama Canal and areas adjacent thereto, including the ports of Balboa and Cristobal.

Subchapter II—Inspection of Vessels

VESSELS SUBJECT TO INSPECTION

Sec. 1811. With the exception of private vessels merely transiting the Panama Canal, and of public vessels of all nations, vessels navigating the waters of the Panama Canal shall be subject to an annual inspection of hulls, boilers, machinery, equipment, and passenger accommodations.

FOREIGN VESSELS

Sec. 1812. With respect to a foreign vessel of a country which has inspection laws approximating those of the United States, any such vessel having an unexpired certificate of inspection duly issued by the authorities of such country shall not be subject to an inspection other than that necessary to determine whether the vessel, its boilers, and its lifesaving equipment are as stated in the certificate of inspection. A certificate of inspection may not be accepted as evidence of lawful inspection under this section unless similar privileges are granted to vessels of the United States under the laws of the country to which the vessel belongs.

REGULATIONS GOVERNING INSPECTION

Sec. 1813. The Commission shall prescribe, and from time to time may amend, regulations concerning the inspection of vessels conforming as nearly as practicable to the laws and regulations governing marine inspection by the United States Coast Guard.

TITLE II—TREATY TRANSITION PERIOD

CHAPTER 1—LAWS CONTINUED IN FORCE

LAWS, REGULATIONS, AND ADMINISTRATIVE AUTHORITY

Sec. 2101. To the extent not inconsistent with the Panama Canal Treaty of 1977 and related agreements and the provisions of this Act, the Canal Zone Code and other laws, regulations, and administrative authority of the United States applicable in the Canal Zone immediately before the date on which the Panama Canal Treaty of 1977 enters into force shall continue in force for the purpose of the exercise by the United States of law enforcement and judicial jurisdiction during the transition period provided for in Article XI of the Panama Canal Treaty of 1977 (hereinafter in this Act referred to as the "transition period").

CHAPTER 2—COURTS

JURISDICTION

Sec. 2201. (a) During the transition period, the jurisdiction of the United States District Court for the District of the Canal Zone and the magistrates' courts under title 3 of the Canal Zone shall be continued, subject to the limitations set forth in Article XI of the Panama Canal Treaty of 1977.

(b) For purposes of the exercise of the jurisdiction provided in Article XI of the Panama Canal Treaty of 1977, the United States District Court and magistrates' courts referred to in subsection (a) of this section shall construe the terms "United States citizen employees", "members of the United States Forces", "civilian component", and "dependents" as such terms are defined in the Panama Canal Treaty of 1977 and related agreements, and shall construe the terms "areas and installations made available for the use of the United States" to mean (1) The Panama Canal operating areas and housing areas described in Annex A to the Agreement in Implementation of Article III of the Panama Canal Treaty, (2) the Ports of Balboa and Cristobal described in Annex B to that Agreement, and (3) the defense sites and Military Areas of Coordination described in Annex A to the Agreement in Implementation of Article IV of the Panama Canal Treaty.

DIVISION AND TERMS OF DISTRICT COURT

Sec. 2202. The United States District Court for the District of the Canal Zone may conduct its affairs at such places within the areas made available for the use by the United States pursuant to the Panama Canal Treaty of 1977 and related agreements, and at such times, as the district judge may designate by rule or order.

TERMS OF CERTAIN OFFICES

Sec. 2203. (a) Notwithstanding the provisions of sections 5, 41, 45, and 82 of title 3 of the Canal Zone Code, the term of office of a district judge, magistrate, United States attorney, or United States marshal shall extend for a period of 30 months beginning on the date on which the Panama Canal Treaty of 1977 enters into force, and any such term shall be subject to such extension of time as may be provided for the disposition of pending cases by agreement between the United States and the Republic of Panama, pursuant to the last sentence of paragraph 7 of Article XI of the Panama Canal Treaty of 1977.

(b) The provisions of this section shall take effect on the date of the enactment of this Act.

RESIDENCE REQUIREMENTS

Sec. 2204. Section 5(d), 7(d), 41(d), and 45(d) of title 3 of the Canal Zone Code, the second sentence of section 42 of such title, and the second sentence of section 82(c) of such title, which provisions require that certain court officials reside in the Canal Zone, are repealed.

SPECIAL DISTRICT JUDGE

Sec. 2205. (a) Section 6 of title 3 of the Canal Zone Code is amended to read as follows:

"§ 6. Special district judge

"That chief judge of the judicial circuit of the United States in which the district court lies may designate and assign a special district judge to act when necessary—

"(1) during the absence of the district judge;

"(2) during the disability or disqualification of the district judge because of sickness or otherwise to discharge his duties; or

"(3) when there is a vacancy in the office of district judge.".

(b) Each designation and assignment by the chief judge under section 6 of title 3 of the Canal Zone Code, as amended by subsection (a) of this section, shall be made in accordance with chapter 13 of title 28, United States Code, which shall be deemed to apply for such purposes.

MAGISTRATES' COURTS

Sec. 2206. (a) The two magistrates' courts established pursuant to section 81 of title 3 of the Canal Zone Code and existing immediately before the date on which the Panama Canal Treaty of 1977 enters into force shall continue in operation during the transition period unless terminated during such period under subsection (b) of this section.

(b) During the transition period, the President may terminate one magistrate's court, together with the positions of magistrate and constable corresponding thereto, if the President determines that the workload is insufficient to warrant continuance of that court. If one of the magistrates' courts is so terminated, the remaining magistrate's courts shall exercise the jurisdiction that otherwise would have been exercised by the terminated court and shall take custody of and administer all records of the terminated court.

CHAPTER 3—ATTORNEYS

OATH OF ATTORNEYS

Sec. 2301. (a) Section 543 of title 3 of the Canal Zone Code is amended to read as follows:

"§ 543. Oath of attorneys admitted to bar.

"Before receiving a certificate the applicant shall take and subscribe in court an appropriate oath prescribed by the district judge.".

(b) The table of sections for chapter 17 of title 3 of the Canal Zone Code is amended by amending the item relating to section 543 to read as follows:

"543. Oath of attorneys admitted to bar.".

CHAPTER 4—TRANSITION AUTHORITY

TRANSITION AUTHORITY OF PRESIDENT

Sec. 2401. Except as expressly provided to the contrary in this or any other Act, or in the Panama Canal Treaty of 1977 and related agreements, any authority necessary for the exercise during the transition period of the rights and responsibilities of the United States specified in Article XI of the Panama Canal Treaty of 1977 shall be vested in the President.

PRISONS; PAROLE; PARDONS

Sec. 2402. (a) Subsection (c) of section 6503 of title 6 of the Canal Zone Code is amended to read as follows:

"(c) Pursuant to the provisions of section 5003 of title 18, United States Code, the Governor may contract with the Attorney General of the United States for the transfer to the custody of the Attorney General of prisoners sentenced by the United States District Court for the District of the Canal Zone to terms of imprisonment in excess of one year.".

(b) After entry into force of the Panama Canal Treaty of 1977—

(1) all prisoners imprisoned in United States prisons pursuant to contracts entered into pursuant to subsection (c) of section 6503 of title 6 of the Canal Zone Code, as amended by subsection (a) of this section, shall be committed to the custody of the Attorney General as if committed in accordance with part III of title 18, United States Code;

(2) all persons convicted of offenses in the United States District Court for the District of the Canal Zone, and sentenced to terms of imprisonment of one year or less, shall be committed to the custody of the Commission; and

(3) the Commission shall prescribe, and from time to time may amend, regulations providing for the management of prisoners in the jails located in the areas and installations made available for the use of the United States pursuant to the Panama Canal Treaty of 1977 and related agreements, including provisions for treatment, care, assignment for work, discipline, and welfare.

(c) After the entry into force of the Panama Canal Treaty of 1977, all persons convicted of offenses in the United States District Court for the District of the Canal Zone, and sentenced to terms of imprisonment in excess of one year, shall be committed to the custody of the Attorney General pursuant to parts III and IV of title 18, United States Code.

(d)(1) Sections 6501 through 6505 of title 6 of the Canal Zone Code are repealed.

(2) The table of sections for chapter 351 of title 6 of the Canal Zone Code is amended by repealing the items relating to sections 6501 through 6505.

(3) Subsections (c) and (d) of this section shall take effect 90 days after entry into force of the prisoner transfer agreement referred to in paragraph 11 of Article IX of the Panama Canal Treaty of 1977 but in no event later than 90 days prior to the end of the transition period.

(f)(1) Chapter 355 of title 6 of the Canal Zone Code is repealed.

(2) the table of chapters for part 3 of title 6 of the Canal Zone Code is amended by repealing the item relating to chapter 355.

TITLE III—GENERAL PROVISIONS

CHAPTER 1—CEMETERIES

DISINTERMENT, TRANSPORTATION, AND REINTERMENT OF REMAINS

Sec. 3101. (a) There are authorized to be appropriated for the fiscal year beginning October 1, 1979, and subsequent fiscal years, such sums as may be necessary to carry out the purposes and provisions of Reservation (3) to the Resolution of Ratification of the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal, adopted by the United States Senate March 16, 1978, such sums to be made available to carry out such purposes and provisions.

(b) With regard to remains that are to be reinterred in the United States, the United States shall not bear the cost of funeral home services, vaults, plots, or crypts unless otherwise provided for by law.

CHAPTER 2—IMMIGRATION

SPECIAL IMMIGRANTS

Sec. 3201. (a) Section 101(a)(27) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)), relating to the definition of special immigrants, is amended—

(1) by striking out "or" at the end of subparagraph (C);

(2) by striking out the period at the end of subparagraph (D) and inserting in lieu thereof a semicolon; and

(3) by adding after subparagraph (D) the following new subparagraphs:

"(E) an immigrant, and his accompanying spouse and children, who is or has been an employee of the Panama Canal Company or Canal Zone Government before the date on which the Panama Canal Treaty of 1977 (as described in section

3(a)(1) of the Panama Canal Act of 1979) enters into force, who was resident in the Canal Zone on the effective date of the exchange of instruments of ratification of such Treaty, and who has performed faithful service as such an employee for one year or more;

"(F) an immigrant, and his accompanying spouse and children, who is a Panamanian national and (i) who, before the date on which such Panama Canal Treaty of 1977 enters into force, has been honorably retired from United States Government employment in the Canal Zone with a total of 15 years or more of faithful service, or (ii) who, on the date on which such Treaty enters into force, has been employed by the United States Government in the Canal Zone with a total of 15 years or more of faithful service and who subsequently is honorably retired from such employment; or

"(G) an immigrant, and his accompanying spouse and children who was an employee of the Panama Canal Company or Canal Zone Government on the effective date of the exchange of instruments of ratification of such Panama Canal Treaty of 1977, who has performed faithful service for five years or more as such an employee, and whose personal safety, or the personal safety of whose spouse or children, as a direct result of such Treaty, is reasonably placed in danger because of the special nature of any of that employment.".

(b) Section 212(d) of such Act (8 U.S.C. 1182(d)), relating to waivers of conditions of inadmissibility to the United States, is amended by adding after paragraph (8) the following new paragraphs:

"(9) The provisions of paragraph (7), of subsection (a) shall not be applicable to any alien who is seeking to enter the United States as a special immigrant under subparagraph (E), (F), or (G) of section 101(a)(27).

"(10) The provisions of paragraph (15) of subsection (a) shall not be applicable to any alien who is seeking to enter the United States as a special immigrant under subparagraph (E), (F), or (G), of section 101(a)(27) and who applies for admission as such a special immigrant not later than March 31, 1983.".

(c) Notwithstanding any other provision of law, not more than 15,000 individuals may be admitted to the United States as special immigrants under subparagraphs (E), (F), or (G) of section 101(a)(27) of the Immigration and Nationality Act, as added by subsection (a) of this section, of which not more than 5,000 may be admitted in any fiscal year.

(d)(1) The amendments made by this section shall take effect on the date of the enactment of this Act.[37]

(2) Paragraph (9) of section 212(d) of the Immigration and Nationality Act, as added by subsection (d) of this section, shall cease to be effective at the end of the transition period.

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[37] September 27, 1979.

CHAPTER 3—REPORTS, AMENDMENTS; REPEALS AND REDESIGNATION; EFFECTIVE DATE

REPORT

Sec. 3301. Until the termination of the Panama Canal Treaty of 1977, the President shall report annually on the status of the exercise of the rights and responsibilities of the United States under that Treaty. Such report shall include a discussion of the following:

(1) The actions taken by the Government of the Republic of Panama with respect to the living conditions of persons who resided in the Canal Zone before the effective date of this Act and who continue to reside in those areas made available to the United States under the Agreement in Implementation of Article III of the Panama Canal Treaty.

(2) The terms, conditions, and charges for land-use licenses within the canal operating areas specified in the Agreement in Implementation of Article III of the Panama Canal Treaty.

(3) The condition of former employees (and their dependents) of the Panama Canal Company and the Canal Zone Government who reside in the Republic of Panama on or after the effective date of this Act.

AMENDMENTS

Sec. 3302. (a) Section 1 of the title II of the Act of June 15, 1917 (50 U.S.C. 191), is amended—

(1) by striking out the second paragraph; and

(2) in subsection (b) of the last paragraph, by striking out ", the Canal Zone,".

(b) Section 1 of title XIII of the Act of June 15, 1917 (50 U.S.C. 195), is amended by striking out "the Canal Zone and".

(c) The first section of the Act of August 9, 1954 (50 U.S.C. 196), is amended by striking out ", including the Canal Zone,".

(d) The Department of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1974 (87 Stat. 636 *et seq.*) is amended by striking out the heading "PAYMENT TO THE REPUBLIC OF PANAMA" and all that follows that relates to the heading.

(e) Title 5, United States Code, is amended—

(1) in sections 305(a)(7), 5102(a)(1)(vii), 5342(a)(1)(G), 5348(b), and 5541(2)(xii), by striking out "Panama Canal Company" and inserting in lieu thereof "Panama Canal Commission";

(2) in sections 5504(a)(A) and 6301(2)(iv), by striking out "Canal Zone Government on Panama Canal Company" and inserting in lieu thereof "Panama Canal Commission";

(3) in section 8335(e), by striking out "Panama Canal Company or the Canal Zone Government" and inserting in lieu thereof "Panama Canal Commission";

(4) in section 5373(1), by striking out "section 121 of title 2, Canal Zone Code (76A Stat. 15)" and inserting in lieu thereof "section 1202 of the Panama Canal Act of 1979";

(5) in section 6323(c)(2)(B), by striking out "the Canal Zone,";

(6) in section 5102(c), by amending paragraph (12) to read as follows:

"(12) any Executive agency to the extent of any election under section 1212(b)(2) (relating to the Panama Canal Employment System) of the Panama Canal Act of 1979;";

(7) in section 5583(b), by—

(A) adding "and" at the end of paragraph (1);

(B) striking out paragraph (2); and

(C) redesignating paragraph (3) as paragraph (2);

(8) in section 5533(d)(7), by—

(A) striking out the semicolon at the end of subparagraph (E) and inserting in lieu thereof "; or";

(B) striking out "; or" at the end of subparagraph (F) and inserting in lieu thereof a period; and

(C) striking out subparagraph (G);

(9) in section 8146—

(A) by striking out "Canal Zone" in the catchline and inserting in lieu thereof "Panama Canal Commission";

(B) in subsection (a)(1), by striking out "Canal Zone Government and of the Panama Canal Company are concerned to the Governor of the Canal Zone" and inserting in lieu thereof "Panama Canal Commission are concerned to the Commission";

(C) in the first sentence of subsection (b), by striking out "Canal Zone Government" and inserting "Panama Canal Commission" in lieu thereof;

(D) in the first sentence of subsection (b) by striking out "or from funds of the Panama Canal Company";

(E) in the second sentence of subsection (b), by striking out "Governor of the Canal Zone" and inserting "Panama Canal Commission" in lieu thereof and by striking out "Canal Zone Government" and inserting "Panama Canal Commission" in lieu thereof;

(F) by amending subsection (c) to read as follows:

"(c) The President may authorize the Panama Canal Commission to waive, at its discretion, the making of the claim required by section 8121 of this title in the case of compensation to an employee of the Panama Canal Commission for temporary disability, either total or partial."; and

(G) in subsection (e), by striking out "Canal Zone Government and of the Panama Canal Company" and inserting in lieu thereof "Panama Canal Commission";

(10) in section 5343(a)(5), by striking out "Canal Zone" and inserting in lieu thereof "areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements (as described in section 3(a) of the Panama Canal Act of 1979).";

(11) in section 5316(87), by striking out "Governor of the Canal Zone" and inserting in lieu thereof "Administrator of the Panama Canal Commission"; and

(12) in the table of sections for chapter 81, by striking out "Canal Zone" in the item relating to section 8146 and inserting in lieu thereof "Panama Canal Commission".

REPEALS AND REDESIGNATION

Sec. 3303. (a) The following provisions of law are repealed:

(1) title 2 of the Canal Zone Code;

(2) sections 2 and 3 of title 3 of the Canal Zone Code, and the items relating to such sections in the table of sections for chapter 1 of title 3 of the Canal Zone Code;

(3) subchapter III of chapter 237 of title 6 of the Canal Zone Code and the items relating to such subchapter in the table of sections for chapter 237 of such title;

(4) subsection (d) of section 38 of the Arms Export Control Act (22 U.S.C. 2778(d)); and

(5) section 4 of the Act of November 15, 1941 (50 U.S.C. 191b).

(b) Those provisions of the Canal Zone Code not repealed by this Act are redesignated as the "Panama Canal Code". Any reference to the Canal Zone Code in those laws and regulations referred to in section 3(b) of this Act shall, subject to the provisions of such action be deemed to refer to the Panama Canal Code.

EFFECTIVE DATE

Sec. 3304. Except as provided in sections 1231, 1232, 1241, 1242, 1261, 1605, 2203, 2402, 3101, and 3201 of this Act, the preceding provisions of this Act shall take effect on the date on which the Panama Canal Treaty of 1977 enters into force.[38]

Approved September 27, 1979.

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[38] October 1, 1979.

b. Delegation of Panama Canal Functions

Executive Order 12215, May 27, 1980, 45 F.R. 36043; as amended by Executive Order 12652, September 19, 1988, 53 F.R. 36775

By the authority vested in me as President of the United States of America by the Panama Canal Code (76A Stat. 1), as amended, by the Panama Canal Act of 1979 (93 Stat. 452; 22 U.S.C. 3601 *et seq.*), and by Section 301 of Title 3 of the United States Code, it is hereby ordered as follows:

1-1. The Secretary of Defense.

1-101. The Secretary of Defense shall develop for the President's consideration an appropriate legislative proposal as required by Section 3(d) of the Panama Canal Act of 1979 (93 Stat. 456; 22 U.S.C. 3602(d)). The Secretary of Defense shall coordinate development of this proposal with the Secretary of State and the heads of other interested Executive agencies.

1-102. The function vested in the President by Section 1212(d)(1) of the Panama Canal Act of 1979 (93 Stat. 464; 22 U.S.C. 3652(d)(1)) to exclude employees of, or positions within, the Department of Defense from coverage under any provision of subchapter II, Chapter 2 of Title I of the Panama Canal Act of 1979, is delegated to the Secretary of Defense.

1-103. The function vested in the President by Section 1281(b) of Title 6 of the Panama Canal Code (76A Stat. 455; 6 P.C.C. 1281(b)), as amended, with respect to areas and installations made available to the United States pursuant to the Agreement in Implementation of Article IV of the Panama Canal Treaty of 1977 is delegated to the Secretary of Defense.

1-104. The function vested in the President by Section 1701 of the Panama Canal Act of 1979 (93 Stat. 492; 22 U.S.C. 3801), with respect to regulations applicable within the areas and installations made available to the United States pursuant to the Agreement in Implementation of Article IV of the Panama Canal Treaty of 1977, is delegated to the Secretary of Defense.

1-105. The functions vested in the President by Sections 1243(c)(1) and 2401 of the Panama Canal Act of 1979 (93 Stat. 474 and 495; 22 U.S.C. 3681(c)(1) and 3851) are delegated to the Secretary of Defense.

1-106. The functions vested in the President by Section 1502(a) of the Panama Canal Act of 1979 (93 Stat. 488; 22 U.S.C. 3782(a)) are delegated to the Secretary of Defense.

1-2. Coordination of Pay and Employment Practices.

1-201. In order to coordinate the policies and activities of agencies under subchapter II of Chapter 2 of Title I of the Panama Canal Act of 1979 (93 Stat. 463; 22 U.S.C. 3651 *et seq.*), each agency shall periodically consult with the Secretary of Defense with respect to the establishment of rates of pay, in order to develop compatible or unified systems of basic pay. In addition, each agency shall consult with the Secretary of Defense on such other matters as the Secretary may deem appropriate in order to develop compatible or unified employment practices.

1-202. The head of each agency shall, upon approval by the Secretary of Defense, adopt a schedule of basic pay pursuant to Section 1215 of the Panama Canal Act of 1979 (93 Stat. 465; 22 U.S.C. 3655) and adopt regulations governing other matters relating to pay and employment practices.

1-203. The authority vested in the President by Section 1223(a) of the Panama Canal Act of 1979 to coordinate the policies and activities of agencies (93 Stat. 467; 22 U.S.C. 3663(a)) is delegated to the Secretary of Defense. The Secretary shall exercise such functions in a manner which is in accord with the provisions of Sections 1-201 and 1-202 of this Order.

1-3. Panama Canal Commission.

1-301. The functions vested in the President and delegated to the Secretary of Defense in this Section 1-3 of this Order shall be carried out by the Secretary of Defense, who shall, in carrying out the said functions, provide, by redelegation or otherwise, for their performance, in a manner consistent with paragraph 3 of Article III of the Panama Canal Treaty of 1977, by the Panama Canal Commission.

1-302. The authority of the President under Section 1104 of the Panama Canal Act of 1979 (93 Stat. 457; 22 U.S.C. 3614) to fix the compensation of and to define the authorities and duties of the Deputy Administrator and the Chief Engineer is delegated to the Secretary of Defense.

1-303. The functions vested in the President by Sections 1418, 1801, and 2206 of the Panama Canal Act of 1979 (93 Stat. 487, 492, and 494; 22 U.S.C. 3778, and 3844) are delegated to the Secretary of Defense.

1-304. The authority of the President under Section 1701 of the Panama Canal Act of 1979 (93 Stat. 492; 22 U.S.C. 3801) with respect to regulations applicable within the areas and installations made available to the United States pursuant to the Agreement in Implementation of Article III of the Panama Canal Treaty of 1977 is delegated to the Secretary of Defense.

1-305. The function vested in the President by Section 1281(b) of Title 6 of the Panama Canal Code (76A Stat. 455; 6 P.C.C. 1281(b)), as amended, with respect to areas and installations in the Republic of Panama made available to the United States pursuant to the Agreement in Implementation of Article III of the Panama Canal Treaty of 1977 is delegated to the Secretary of Defense.

1-306. The function vested in the President by Sections 82 and 86 of Title 3 of the Panama Canal Code (76A Stat. 54 and 55; 3 P.C.C. 82 and 86), as amended, are delegated to the Secretary of Defense.

1-307.[1] * * * [Rescinded—1988]

1-308. Except to the extent heretofore delegated, the functions vested in the President pursuant to subchapter II of Chapter 2 of Title I of the Panama Canal Act of 1979 (93 Stat. 463) are hereby delegated to the Secretary of Defense.

1-4. Other Agencies.

1-401. The functions vested in the President by Sections 1111 and 3301 of the Panama Canal Act of 1979 (93 Stat. 459 and 497; 22 U.S.C. 3621 and 3871), are delegated to the Secretary of State. The Secretary shall perform these functions in coordination with the Secretary of Defense.

1-402. The functions vested in the President by Sections 1112(d), 1344(b), and 1504(b) of the Panama Canal Act of 1979 (93 Stat. 460, 484, and 488; 22 U.S.C. 3622(d), 3754(b), and 3784(b)) are delegated to the Secretary of State.

1-403. The functions vested in the President by Section 1243(a)(1) of the Panama Canal Act of 1979 (93 Stat. 473; 22 U.S.C. 3681(a)(1)) are delegated to the Director of the Office of Personnel Management.

1-404. Paragraphs (22) and (23) of Section 1 of Executive Order No. 11609, as amended, and Executive Order No. 11713 are revoked.

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[1] Sec. 1 of Executive Order 12652 of September 19, 1988 (53 F.R. 36775), rescinded sec. 1-307. It formerly read as follows:

"The functions vested in the President by subsections (a), (b) and (c) of provided: Section 8146 of Title 5 of the United States Code, as they apply to the employees of the Panama Canal Commission, are delegated to the Secretary of Defense."

Executive Order 12652 also provided:

"**Sec. 2.** The transfer and other exercises of authority made pursuant to Section 1-307 of Executive Order 12215 in Department of Defense Memorandum, 'Implementation of Executive Order 12215, "Delegation of Panama Canal Functions",' July 18, 1980, are rescinded.

"**Sec. 3.** This Order shall be effective January 1, 1989."

c. Panama Canal—Report to Congress

Partial text of Public Law 100-203 [Omnibus Budget Reconciliation Act of 1987, H.R. 3545], 101 Stat. 1330 at 1330-271, approved December 22, 1987

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

* * * * * * *

TITLE V—ENERGY AND ENVIRONMENTAL PROGRAMS

* * * * * * *

Subtitle E—Panama Canal

* * * * * * *

PART 1—PANAMA CANAL REAUTHORIZATION

* * * * * * *

Sec. 5418. Report to Congress.

Out of the funds authorized to be appropriated by this part, the Commission[1] shall prepare and submit to the Congress a report on—

(1) the condition of the Panama Canal and potential adverse effects on United States shipping and commerce;

(2) the effect on canal operations of the military forces under General Noriega; and

(3) the Commission's evaluation of the effect on canal operations if the Panamanian Government continues to withhold its consent to major factors in the United States Senate's ratification of the Panama Canal Treaties.

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[1] The Panama Canal Commission.

H. UNITED NATIONS AND OTHER INTERNATIONAL ORGANIZATIONS

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1. The United Nations Participation Act of 1945, as amended [1]

Public Law 79-264 [S. 1580], 59 Stat. 619; 22 U.S.C. 287-287e, approved December 20, 1945; as amended by Public Law 81-216 [H.R. 5632], 63 Stat. 578, approved August 10, 1949; Public Law 81-341 [H.R. 4708], 63 Stat. 734; approved October 10, 1949; Public Law 86-707 [H.R. 7758], 74 Stat. 792, approved September 6, 1960; Public Law 89-206 [S. 1903], 79 Stat. 841, approved September 28, 1965; Public Law 93-126 [H.R. 7645], 87 Stat. 451, approved October 18, 1973; Public Law 95-12 [H.R. 1746], 91 Stat. 22, approved March 18, 1977; Public Law 96-465 [H.R. 6790], 94 Stat. 2071 at 2160, approved October 17, 1980; Public Law 97-241 [Department of State Authorization Act, Fiscal Years 1982 and 1983; S. 1193], 96 Stat. 273 at 279 and 280, approved August 24, 1982; Public Law 98-164 [Department of State Authorization Act, Fiscal Years 1984 and 1985; H.R. 2915], 97 Stat. 1017 at 1035, approved November 22, 1983; and by Public Law 100-459 [Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1989; H.R. 4782], approved October 1, 1988

AN ACT To provide for the appointment of representatives of the United States in the organs and agencies of the United Nations, and to make other provision with respect to the participation of the United States in such organization.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "United Nations Participation Act of 1945".

Sec. 2. (a) [2] The President, by and with the advice and consent of the Senate, shall appoint a representative of the United States to the United Nations who shall have the rank and status of Ambassador Extraordinary and Plenipotentiary and shall hold office at the pleasure of the President. Such representative shall represent the United States in the Security Council of the United Nations and may serve ex officio as representative of the United States in any organ, commission, or other body of the United Nations other than specialized agencies of the United Nations, and shall perform such other functions in connection with the participation of the United States in the United Nations as the President may, from time to time, direct.

(b) [2] The President, by and with the advice and consent of the Senate, shall appoint additional persons with appropriate titles, rank, and status to represent the United States in the principal organs of the United Nations and in such organs, commissions, or other bodies as may be created by the United Nations with respect to nuclear energy or disarmament (control and limitation of armament). Such persons shall serve at the pleasure of the President and subject to the direction of the Representative of the United States to the United Nations. They shall, at the direction of the Representative of the United States to the United Nations, represent the United States in any organ, commission, or other body of the United Nations, including the Security Council, the Economic and Social Council, and the Trusteeship Council, and perform such other functions as the Representative of the United States is authorized to perform in connection with the participation of the United States in the United Nations. Any Deputy Representative or any other officer holding office at the time the provisions of this Act, as amended, become effective shall not be required to be reappointed by reason of the enactment of this Act, as amended.

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[1] Sec. 503 of the Foreign Relations Authorization Act, Fiscal Year 1978 (91 Stat. 858), called on the United States to initiate "major reforms in the United Nations system in order to make that body more effective in resolving global problems." For text of sec. 503, see page 173.

[2] Subsecs. (a) and (b) were amended and restated by sec. 1(a) of Public Law 89-206 (79 Stat. 841); previously amended and restated by sec. 2 of Public Law 81-341 (63 Stat. 734).

(c)[3] The President, by and with the advice and consent of the Senate, shall designate from time to time to attend a specified session or specified sessions of the General Assembly of the United Nations not to exceed five representatives of the United States and such number of alternates as he may determine consistent with the rules of procedure of the General Assembly. One of the representatives shall be designated as the senior representative.

(d)[4] The President may also appoint from time to time such other persons as he may deem necessary to represent the United States in organs and agencies of the United Nations. The President may, without the advice and consent of the Senate, designate any officer of the United States to act without additional compensation as the representative of the United States in either the Economic and Social Council or the Trusteeship Council (1) at any specified session thereof where the position is vacant or in the absence or disability of the regular representative or (2) in connection with a specified subject matter at any specified session of either such council in lieu of the regular representative. The President may designate any officer of the Department of State, whose appointment is subject to confirmation by the Senate, to act, without additional compensation, for temporary periods as the representative of the United States in the Security Council of the United Nations in the absence or disability of the representatives provided for under section 2 (a) and (b) or in lieu of such representatives in connection with a specified subject matter.

(e)[5] The President, by and with the advice and consent of the Senate, shall appoint a representative of the United States to the European office of the United Nations with appropriate rank and status who shall serve at the pleasure of the President and subject to the direction of the Secretary of State. Such person shall, at the direction of the Secretary of State, represent the United States at the European office of the United Nations, and perform such other functions there in connection with the participation of the United States in international organizations as the Secretary of State may, from time to time, direct.

(f)[5] Nothing contained in this section shall preclude the President, or the Secretary of State, at the direction of the President from representing the United States at any meeting or session of any organ or agency of the United Nations.

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[3] Subsec. (c) was amended and restated by sec. 1 of Public Law 81-341 (63 Stat. 734).

[4] Subsec. (d) was amended and restated by sec. 1(b) of Public Law 89-206 (79 Stat. 841); previously amended and restated by sec. 1 of Public Law 81-341 (63 Stat. 735).

[5] Subsecs. (e) and (f) were redesignated subsecs. (f) and (g) respectively and a new subsec. (e) was added by sec. 2 of Public Law 89-206 (79 Stat. 841). The present subsec. (g) was originally added by sec. 2 of Public Law 81-341.

(g)[5] All persons appointed in pursuance of authority contained in this section shall receive compensation at rates determined by the President upon the basis of duties to be performed but not in excess of rates authorized by sections 401, 402, and 403 of the Foreign Service Act of 1980 for chiefs of mission, members of the Senior Foreign Service, and Foreign Service officers occupying positions of equivalent importance, except that no Member of the Senate or House of Representatives or officer of the United States who is designated under subsections (c) and (d) of this section as a representative of the United States or as an alternate to attend any specified session or specified sessions of the General Assembly shall be entitled to receive such compensation.[6]

(h)[7] The President, by and with the advice and consent of the Senate, shall appoint a representative of the United States to the Vienna office of the United Nations with appropriate rank and status, who shall serve at the pleasure of the President and subject to the direction of the Secretary of State. Such individual shall, at the direction of the Secretary of State, represent the United States at the Vienna office of the United Nations and perform such other functions there in connection with the participation of the United States in international organizations as the Secretary of State from time to time may direct.

Sec. 3.[8] The representatives provided for in section 2 hereof, when representing the United States in the respective organs and agencies of the United Nations, shall, at all times, act in accordance with the instructions of the President transmitted by the Secretary of State unless other means of transmission is directed by the President, and such representatives shall, in accordance with such instructions, cast any and all votes under the Charter in the United Nations.

Sec. 4.[9] The President shall, from time to time as occasion may require, but not less than once each year, make reports to the Congress of the activities of the United Nations and of the participation of the United States therein. He shall make special current reports on decisions of the Security Council to take enforcement measures under the provisions of the Charter of the United Nations, and on the participation therein, under his instructions, of the representative of the United States.

Sec. 5.[10] (a) Notwithstanding the provisions of any other law, whenever the United States is called upon by the Security Council to apply measures which said Council has decided, pursuant to article 41 of said Chapter, are to be employed to give effect to its decisions under said Charter, the President may, to the extent necessary to apply such measures, through any agency which he may designate, and under such orders, rules, and regulations as may be prescribed by him, investigate, regulate, or prohibit, in whole or in part, economic relations of rail, sea, air, postal, telegraphic, radio, and other means of communication between any foreign country or any national thereof or any person therein and the United States or any person subject to the jurisdiction thereof, or involving any property subject to the jurisdiction of the United States. Any Executive order which is issued under this subsection and which applies measures against Southern Rhodesia pursuant to any United Nations Security Council Resolution may be enforced, notwithstanding the provisions of any other law.[11] The President may exempt from such Executive order any shipment of chromium in any form which is in transit to the United States on the date of enactment of this sentence.[12]

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[6] References in this sentence to the Foreign Service Act of 1980 and to the Senior Foreign Service were inserted by sec. 2206(a)(2) of Public Law 96-465 (94 Stat. 2160), effective February 15, 1981. These replaced a reference to the Foreign Service Act of 1946.

[7] Subsec. (h) was added by sec. 118 of the Department of State Authorization Act, Fiscal Years 1982 and 1983 (Public Law 97-273, 96 Stat. 279).

[8] 22 U.S.C. 287a.

[9] 22 U.S.C. 287b.

[10] 22 U.S.C. 287c.

(b) Any person who willfully violates or evades or attempts to violate or evade any order, rule, or regulation issued by the President pursuant to paragraph (a) of this section shall, upon conviction, be fined not more than $10,000 or, if a natural person, be imprisoned for not more than ten years, or both; and the officer, director, or agent of any corporation who knowingly participates in such violation or evasion shall be punished by a like fine, imprisonment, or both, and any property, funds, securities, papers, or other articles or documents, or any vessel, together with her tackle, apparel, furniture, and equipment, or vehicle, or aircraft,[13] concerned in such violation shall be forfeited to the United States.

(c)[14] (1) During the period in which measures are applied against Southern Rhodesia under subsection (a) pursuant to any United Nations Security Council Resolution, a shipment of any steel mill product (as such product may be defined by the Secretary) containing chromium in any form may not be released from customs custody for entry into the United States if—

(A) a certificate of origin with respect to such shipment has not been filed with the Secretary; or

(B) in the case of a shipment with respect to which a certificate of origin has been filed with the Secretary, the Secretary determines that the information contained in such certificate does not adequately establish that the steel mill product in such shipment does not contain chromium in any form which is of Southern Rhodesian origin;

unless such release is authorized by the Secretary under paragraph (3) (B) or (C).

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[11] Such an Executive Order was issued on March 18, 1977, Executive Order 11978 (amending Executive Order 11419). See also sec. 27 of the International Security Assistance Act of 1978 (92 Stat. 746) which specified that the United States would not enforce sanctions against Rhodesia after December 31, 1978, provided that the President made certain determinations regarding the political situation in Rhodesia (vol. I, page 461, note 11). The policy contained in sec. 27 was never implemented since the President did not issue the necessary determinations. See also sec. 408 of the Department of State Authorization Act, Fiscal Year 1980-81 (Public Law 96-60, 93 Stat. 405) (this vol., page 145, note 9) which contained several congressional findings regarding the Zimbabwe-Rhodesia situation and instructed the President to terminate sanctions against Zimbabwe-Rhodesia by November 15, 1979, unless he determined that it would not be in the national interest of the United States to do so. On November 14, President Carter issued Determination No. 80-44 (55 F.R. 67073) making a finding that it was not in the interest of the United States to terminate the sanctions. However, on December 16, 1979, the President issued Executive Order 12183 (44 F.R. 74787) which revoked all sanctions against Zimbabwe-Rhodesia. Such Executive Order also revoked Executive Orders 11322, 11419, and 11978.

[12] The final two sentences of subsec. (a) were added by Public Law 95-12 (91 Stat. 22).

[13] The words "or aircraft" added by sec. 3 of Public Law 81-341 (63 Stat. 735).

[14] Subsec. (c) was added by Public Law 95-12 (91 Stat. 22).

(2) The Secretary shall prescribe regulations for carrying out this subsection.

(3)(A) In carrying out this subsection, the Secretary may issue subpenas requiring the attendance and testimony of witnesses and the production of evidence. Any such subpena, may, upon application by the Secretary, be enforced in a civil action in an appropriate United States district court.

(B) The Secretary may exempt from the certification requirements of this subsection any shipment of a steel mill product containing chromium in any form which is in transit to the United States on the date of enactment of this subsection.

(C) Under such circumstances as he deems appropriate, the Secretary may release from customs custody for entry into the United States, under such bond as he may require, any shipment of a steel mill product containing chromium in any form.

(4) As used in this subsection—

(A) the term "certificate of origin" means such certificate as the Secretary may require, with respect to a shipment of any steel mill product containing chromium in any form, issued by the government (or by a designee of such government if the Secretary is satisfied that such designee is the highest available certifying authority) of the country in which such steel mill product was produced certifying that the steel mill product in such shipment contains no chromium in any form which is of Southern Rhodesian origin; and

(B) the term "Secretary" means the Secretary of the Treasury.

Sec. 6.[15] The President is authorized to negotiate a special agreement or agreements with the Security Council which shall be subject to the approval of the Congress by appropriate Act or joint resolution, providing for the numbers and types of armed forces, their degree of readiness and general locations, and the nature of facilities and assistance, including rights of passage, to be made available to the Security Council on its call for the purpose of maintaining international peace and security in accordance with article 43 of said Charter. The President shall not be deemed to require the authorization of the Congress to make available to the Security Council on its call in order to take action under article 42 of said Charter and pursuant to such special agreement or agreements the Armed Forces, facilities, or assistance provided for therein: *Provided,* That, except as authorized in section 7 of this Act,[16] nothing herein contained shall be construed as an authorization to the President by the Congress to make available to the Security Council for such purpose armed forces, facilities, or assistance in addition to the forces, facilities, and assistance provided for in such special agreement or agreements.

Sec. 7.[17] (a) Notwithstanding the provisions of any other law, the President, upon the request by the United Nations for cooperative action, and to the extent that he finds that it is consistent with the national interest to comply with such request, may authorize, in support of such activities of the United Nations as are specifically directed to the peaceful settlement of disputes and not involving the employment of armed forces contemplated by chapter VII of the United Nations Charter—

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[15] 22 U.S.C. 287d.

[16] The words "except as authorized in section 7 of this Act" were added by sec. 4 of Public Law 81-341 (63 Stat. 735).

[17] 22 U.S.C. 287d-1. Sec. 7 was added by sec. 5 of Public Law 81-341 (63 Stat. 735). Sec. 12(a) of Public Law 81-216 (63 Stat. 591) changed the term "National Military Establishment" to "Department of Defense" throughout the section.

(1) the detail to the United Nations, under such terms and conditions as the President shall determine, of personnel of the armed forces of the United States to serve as observers, guards, or in any noncombatant capacity, but in no event shall more than a total of one thousand of such personnel be so detailed at any one time: *Provided,* That while so detailed, such personnel shall be considered for all purposes as acting in the line of duty, including the receipt of pay and allowances as personnel of the armed forces of the United States, credit for longevity and retirement, and all other perquisites appertaining to such duty: *Provided further,* That upon authorization or approval by the President, such personnel may accept directly from the United Nations (a) any or all of the allowances or perquisites to which they are entitled under the first proviso hereof, and (b) extraordinary expenses and perquisites incident to such detail;

(2) the furnishing of facilities, services, or other assistance and the loan of the agreed fair share of the United States of any supplies and equipment to the United Nations by the Department of Defense, under such terms and conditions as the President shall determine;

(3) the obligation, insofar as necessary to carry out the purposes of clauses (1) and (2) of this subsection, of any funds appropriated to the Department of Defense or any department therein, the procurement of such personnel, supplies, equipment, facilities, services, or other assistance as may be made available in accordance with the request of the United Nations, and the replacement of such items, when necessary, where they are furnished from stocks.

(b) Whenever personnel or assistance is made available pursuant to the authority contained in subsection (a) (1) and (2) of this section, the President shall require reimbursement from the United Nations for the expense thereby incurred by the United States: *Provided,* That in exceptional circumstances, or when the President finds it to be in the national interest, he may waive, in whole or in part, the requirement of such reimbursement: *Provided further,* That when any such reimbursement is made, it shall be credited, at the option of the appropriate department of the Department of Defense, either to the appropriation, fund, or account utilized in incurring the obligation, or to an appropriate appropriation, fund, or account currently available for the purposes for which expenditures were made.

(c) In addition to the authorization of appropriations to the Department of State contained in section 8 of this Act, there is hereby authorized to be appropriated to the Department of Defense, or any department therein, such sums as may be necessary to reimburse such departments in the event that reimbursement from the

United Nations is waived in whole or in part pursuant to authority contained in subsection (b) of this section.

(d) Nothing in this Act shall authorize the disclosure of any information or knowledge in any case in which such disclosure is prohibited by any other law of the United States.

Sec. 8.[18] There is hereby authorized to be appropriated annually to the Department of State, out of any money in the treasury not otherwise appropriated, such sums as may be necessary for the payment by the United States of its share of the expenses of the United Nations as apportioned by the General Assembly in accordance with article 17 of the Charter, and for all necessary salaries and expenses of the representatives provided for in section 2 hereof, and of their appropriate staffs, including personal services in the District of Columbia and elsewhere, without regard to the civil-service laws and the Classification Act of 1923, as amended;[19] travel expenses without regard to the Standardized Government Travel Regulations, as amended, the Travel Expense Act of 1949,[20] and section 10 of the Act of March 3, 1933, as amended,[21] and, under such rules and regulations as the Secretary of State may prescribe, travel expenses of families and transportation of effects of United States representatives and other personnel in going to and returning from their post of duty; allowances for living quarters, including heat, fuel, and light, as authorized by the Act approved June 26, 1930 (5 U.S.C. 118a); [22] cost-of-living allowances for personnel stationed abroad under such rules and regulations as the Secretary of State may prescribe; communications services; stenographic reporting, translating, and other services, by contract; hire of passenger motor vehicles and other local transportation; rent of offices; printing and binding without regard to section 11 of the Act of March 1, 1949 (44 U.S.C. 111); allowances and expenses as provided in section 6 of the Act of July 30, 1946 (Public Law 565, Seventy-ninth Congress),[23] and allowances and expenses equivalent to those provided in section 905 of the Foreign Service Act of 1980,[24] the lease or rental (for periods not exceeding ten years) of living quarters for the use of the representatives provided for in section 2 of this Act serving abroad [25] and of their appropriate staffs,[26] the

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[18] 22 U.S.C. 287e. Added originally as sec. 7, this text was redesignated as sec. 8 by sec. 6 of Public Law 81-341 (63 Stat. 736).

Sec. 410 of the Foreign Assistance Act of 1971, Public Law 92-226, approved February 7, 1972, provided as follows:

"The Congress strongly urges the President to undertake such negotiations as may be necessary to implement that portion of the recommendations of the Report of the President's Commission for the Observance of the Twenty-fifth Anniversary of the United Nations (known as the "Lodge Commission") which proposes that the portion of the regular assessed costs to be paid by the United States to the United Nations be reduced so that the United States is assessed in each year not more than 25 per centum of such costs assessed all members of the United Nations for that year."

[19] Classification Act of 1923, as amended, is now the Classification Act of 1949, as amended (5 U.S.C. 305, 5101-5113, 5115, 5331-5338, 5341, 5342, 5509, 7154).

[20] Travel Expense Act of 1949 is now amended (5 U.S.C. 5701, 5702, 5704-5708).

[21] 15 U.S.C. 5731.

[22] Act of June 26, 1930, is now amended (5 U.S.C. 5912).

[23] Sec. 6 of the Act of July 30, 1946, as amended (22 U.S.C. 287r).

[24] The reference to sec. 905 of the Foreign Service Act of 1980 was inserted by sec. 2206(a)(2) of Public Law 96-465 (94 Stat. 2160), effective February 15, 1981. This replaced a reference to sec. 901(3) of the Foreign Service Act of 1946.

[25] Sec. 304(a)(1) of Public Law 100-459 (102 Stat. 2207) added "serving abroad" at this point.

[26] The words "representatives provided for in section 2 of this Act and of their appropriate staffs" were inserted in lieu of "representative of the United States to the United Nations re-

Continued

cost of installation and use of telephones in the same manner as telephone service is provided for use of the Foreign Service pursuant to the Act of August 23, 1912, as amended (31 U.S.C. 679), and [27] unusual expenses similar to those authorized by section 22 of the Administrative Expenses Act of 1946, as amended [28] by section 311 of the Overseas Differentials and Allowances Act, incident to the operation and maintenance of such living quarters abroad [29]; and such other expenses as may be authorized by the Secretary of State; and without regard to section 3709 of the Revised Statutes as amended (41 U.S.C. 5).[30]

Sec. 9.[31] The Secretary of State may, under such regulations as he shall prescribe, and notwithstanding section 3648 of the Revised Statutes (31 U.S.C. 529) and section 5536 of title 5, United States Code:

> (1) Make available to the Representative of the Untied States to the United Nations and the Deputy Permanent Representative of the United States to the United Nations living quarters leased or rented by the United States (for periods not exceeding ten years) and allowances for unusual expenses incident to the operation and maintenance of such living quarters similar to those and to be considered for all purposes as authorized by section 22 of the Administrative Expenses Act of 1946, as amended by section 311 of the Overseas Differentials and Allowances Act.

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ferred to in paragraph (a) of section 2 hereof" by sec. 119(1) of the Department of State Authorization Act, Fiscal Years 1982 and 1983 (Public Law 97–241, 96 Stat. 280).

[27] Sec. 311(b) of Public Law 86–707 substituted the phrase "and unusual expenses * * *" for the previous clause.

[28] Sec. 22 of the Administrative Expenses Act of 1946, as amended, is now codified as 5 U.S.C. 5913 by Public Law 89–554 (80 Stat. 378 at 510, September 6, 1966).

[29] Sec. 304(a)(2) of Public Law 100–459 (102 Stat. 2207) added "abroad" at this point.

[30] The last sentence, added by sec. 119(2) of Public Law 97–273 (96 Stat. 280), was deleted by sec. 304(a)(3) of Public Law 100–459. It formerly read as follows:

"Any payments made by United States Government personnel for occupancy by them of living quarters leased or rented under this section shall be credited to the appropriation, fund, or account utilized by the Secretary of State for such lease or rental or to the appropriation, fund, or account currently available for such purpose."

[31] 22 U.S.C. 287e–1. Sec. 9, originally added by sec. 15 of Public Law 93–126 (87 Stat. 454), was substantially rewritten by sec. 304(b) of Public Law 100–459 (102 Stat. 2207). Subsec. (2) was redesignated "(3)"; in such subsec. the word "President" was deleted and "Secretary" inserted; subsecs. (1), (2), and (4) were new text. Sec. 304(c)(1) provided an effective date of July 1, 1989, for these amendments. Sec. 9 formerly read as follows:

"**Sec. 9.** The President may, under such regulations as he shall prescribe, and notwithstanding section 3648 of the Revised Statutes (31 U.S.C. 529) and section 5536 of title 5, United States Code—

> "(1) grant any employee of the staff of the United States Mission to the United Nations designated by the Secretary of State, and any employee of the United States Information Agency designated by the Director of that Agency, who is required because of important representational responsibilities to live in the extraordinarily high-rent area immediately surrounding the headquarters of the United Nations in New York, New York, an allowance to compensate for the portion of expenses necessarily incurred by the employee for quarters and utilities which exceed the average of such expenses incurred by typical, permanent residents of the Metropolitan New York, New York, area with comparable salary and family size who are not compelled by reason of their employment to live in such high-rent area; and
>
> "(2) provide such allowance as the President considers appropriate, to each Delegate and Alternate Delegate of the United States to any session of the General Assembly of the United Nations who is not a permanent member of the staff of the United States Mission to the United Nations, in order to compensate each such Delegate or Alternate Delegate for necessary housing and subsistence expenses incurred by him with respect to attending any such session.

"Not more than fifty employees, including not more than five employees of the United States Information Agency, shall be receiving an allowance under paragraph (1) of this section at any one time."

(2) [32] Make available in New York to no more than 18 foreign service employees of the staff of the United States Mission to the United Nations, other representatives, and no more than two employees who serve at the pleasure of the Representative, living quarters leased or rented by the United States (for periods not exceeding ten years). The number of employees to which such quarters will be made available shall be determined by the Secretary and shall reflect a significant reduction over the number of persons eligible for housing benefits as of the date of enactment of this provision. No employee may occupy a unit under this provision if the unit is owned by the employee. The Secretary shall require that each employee occupying housing under this subsection contribute to the Department of State a percentage of his or her base salary, in an amount to be determined by the Secretary of State toward the cost of such housing. The Secretary may reduce such payments to the extent of income taxes paid on the value of the leased or rented quarters any payments made by employees to the Department of State for occupancy by them of living quarters leased or rented under this section shall be credited to the appropriation, fund, or account utilized by the Secretary of State for such lease or rental or to the appropriation, fund, or account currently available for such purpose.

(3) [31] provide such allowance as the Secretary considers appropriate, to each Delegate and Alternate Delegate of the United States to any session of the General Assembly of the United Nations who is not a permanent member of the staff of the United States Mission to the United Nations, in order to compensate each such Delegate or Alternate Delegate for necessary housing and subsistence expenses incurred by him with respect to attending any such session.

(4) The Inspector General shall review the program established by this section no later than December 1989 and periodically thereafter with a view to increasing cost savings and making other appropriate recommendations.

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[32] Sec. 304(c) of Public Law 100–459 (102 Stat. 2208) provided:

"(2) In the event that taxes paid by an employee on the benefit provided under subsection (2) of section 9 exceed the contribution amount computed as a percentage of base salary under that subsection, the Department of State may reimburse the employee up to the amount of such differential for the period from the date of enactment of this Act through July 1, 1989."

2. The United Nations Headquarters Agreement Act

Public Law 80-357 [S.J. Res. 144], 61 Stat. 756, approved August 4, 1947

JOINT RESOLUTION Authorizing the President to bring into effect an agreement between the United States and the United Nations for the purpose of establishing the permanent headquarters of the United Nations in the United States and authorizing the taking of measures necessary to facilitate compliance with the provisions of such agreement, and for other purposes.[1]

Whereas the Charter of the United Nations was signed on behalf of the United States on June 26, 1945, and was ratified on August 8, 1945, by the President of the United States, by and with the advice and consent of the Senate, and the instrument of ratification of said Charter was deposited on August 8, 1945; and

Whereas the said Charter of the United Nations came into force with respect to the United States on October 24, 1945; and

Whereas article 104 of the Charter provides that "The Organization shall enjoy in the territory of each of its Members such legal capacity as may be necessary for the exercise of its functions and the fulfillment of its purposes"; and

Whereas article 105 of the Charter provides that:

"1. The Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfillment of its purposes.

"2. Representatives of the Members of the United Nations and officials of the Organization shall similarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Organization.

"3. The General Assembly may make recommendations with a view to determining the details of the application of paragraphs 1 and 2 of this article or may propose conventions to the Members of the United Nations for this purpose."; and

Whereas article 28 and other articles of the Charter of the United Nations contemplate the establishment of a seat for the permanent headquarters of the Organization; and

Whereas the interim arrangements concluded on June 26, 1945, by the governments represented at the United Nations Conference on International Organization instructed the Preparatory Commission established in pursuance of the arrangements to "make studies and prepare recommendations concerning the location of the permanent headquarters of the Organization"; and

Whereas during the labors of the said Preparatory Commission, the Congress of the United States in H. Con. Res. 75, passed unanimously by the House of Representatives December 10, 1945, and agreed to unanimously by the Senate December 11, 1945, invited the United Nations "to locate the seat of the United Nations Organization within the United States"; and

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[1] 22 U.S.C. 287 note.

Whereas the General Assembly on December 14, 1946, resolved "that the permanent headquarters of the United Nations shall be established in New York City in the area bounded by First Avenue, East Forty-eighth Street, the East River, and East Forty-second Street"; and

Whereas the General Assembly resolved on December 14, 1946, "That the Secretary-General be authorized to negotiate and conclude with the appropriate authorities of the United States of America an agreement concerning the arrangements required as a result of the establishment of the permanent headquarters of the United Nations in the city of New York" and to be guided in these negotiations by the provisions of a preliminary draft agreement which had been negotiated by the Secretary-General and the Secretary of State of the United States; and

Whereas the General Assembly resolved on December 14, 1946, that pending the coming into force of the agreement referred to above "the Secretary-General be authorized to negotiate and conclude arrangements with the appropriate authorities of the United States of America to determine on a provisional basis the privileges, immunities, and facilities needed in connection with the temporary headquarters of the United Nations"; and

Whereas the Secretary of State of the United States, after consultation with the appropriate authorities of the State and city of New York, signed at Lake Success, New York, on June 26, 1947, on behalf of the United States an agreement with the United Nations regarding the headquarters of the United Nations, which agreement is incorporated herein; and

Whereas the aforesaid agreement provides that it shall be brought into effect by an exchange of notes between the United States and the Secretary-General of the United Nations: Therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is hereby authorized to bring into effect on the part of the United States the agreement between the United States of America and the United Nations regarding the headquarters of the United Nations, signed at Lake Success, New York, on June 26, 1947 (hereinafter referred to as the "agreement"), with such changes therein not contrary to the general tenor thereof and not imposing any additional obligations on the United States as the President may deem necessary and appropriate, and at his discretion, after consultation with the appropriate State and local authorities, to enter into such supplemental agreements with the United Nations as may be necessary to fulfill the purposes of the said agreement: *Provided,* That any supplemental agreement entered into pursuant to section 5 of the agreement incorporated herein shall be submitted to the Congress for approval. The agreement follows: [2]

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[2] For text of the agreement, see vol. III, sec. H.

3. Appropriations Limitation on Contributions to International Organizations [1]

Partial text of Public Law 92-544 [H.R. 14989], 86 Stat. 1109, 1110, approved October 25, 1972

AN ACT Making appropriations for the Departments of State, Justice and Commerce, the Judiciary, and related agencies for the fiscal year ending June 30, 1973, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending June 30, 1973, and for other purposes, namely:

* * * * * * *

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS [1, 2]

* * * *Provided,* That after December 31, 1973, no appropriation is authorized and no payment shall be made to the United Nations

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[1] Restriction in Public Law 82-495, 66 Stat. 550, July 10, 1952. Department of State Appropriation Act, 1953, is considered permanent legislation with respect to the international organizations not exempted. See 22 U.S.C. 262b. It reads as follows:

"No representative of the United States Government in any international organization after fiscal year 1953 shall make any commitment requiring the appropriation of funds for a contribution by the United States in excess of 33½ per centum of the budget of any international organization for which the appropriation for the United States contribution is contained in this Act: *Provided,* That in exceptional circumstances necessitating a contribution by the United States in excess of 33⅓ per centum of the budget, a commitment requiring a United States appropriation of a larger proportion may be made after consultation by United States representatives in the organization or other appropriate officials of the Department of State with the Committees on Appropriations of the Senate and House of Representatives; *Provided, however,* That this section shall not apply to the United States representatives to the Inter-American organizations, Caribbean Commission and the Joint Support program of the International Civil Aviation Organization."

This provision was first included in sec. 602 of Public Law 83-188, 65 Stat. 599, Oct. 22, 1951, Departments of State, Justice, Commerce, and the Judiciary Appropriation Act, 1952.

The exemption granted to the Caribbean Commission and the Joint Support program of the International Civil Aviation Organization was added by Public Law 83-195, 67 Stat. 368. Aug. 5, 1953, Department of State Appropriation Act, 1954.

NOTE: In addition, there are specific legislative limitations on the percentage contribution of the United States to the following organizations:

(1) 33⅓ percent to the World Health Organization (Act of July 14, 1948; 22 U.S.C. 290b). However, sec. 103 of the Foreign Relations Authorization Act, Fiscal Year 1978 (91 Stat. 844), stated that notwithstanding the provisions of Public Law 92-544, $7,281,583 of the FY 1978 appropriation authorization for "International Organizations and Conferences" is authorized to be paid to the World Health Organization for any unpaid balance of the U.S. assessed contribution to such organization for the calendar years 1974 through 1977. See vol. I, sec. E for complete text;

(2) 33⅓ percent to the Food and Agriculture Organization (Act of July 31, 1945; 22 U.S.C. 279a);

(3) 25 percent to the International Labor Organization (Act of June 30, 1948; 22 U.S.C. 272a);

(4) 25 percent to the NATO Parliamentary Conference (Act of July 11, 1956; 22 U.S.C. 1928b); and

(5) Not to exceed 20 per centum of the total contributions assessed for any period to administer the International Coffee Agreement (TIAS 5505, 14 UST 1911, Sept. 28, 1962), and such

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or any affiliated agency in excess of 25 per centum [1] of the total annual assessment of such organization. Appropriations are authorized and contributions and payments may be made to the following organizations and activities notwithstanding that such contributions and payments are in excess of 25 per centum of the total annual assessment of the respective organization or 33⅓ per centum of the budget for the respective activity: the International Atomic Energy Agency, the joint financing program of the International Civil Aviation Organization, and contributions for international peacekeeping activities conducted by or under the auspices of the United Nations or through multilateral agreements.[3]

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amount shall not exceed $150,000 for any fiscal year, to the International Coffee Organization (sec. 6 of Public Law 89-23, 79 Stat. 113, approved May 22, 1965).

[2] See also secs. 114 and 115 of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98-164, 97 Stat. 1020) which provided other limitations on certain U.S. contributions to international organizations, page 114.

[3] Sec. 203 of the Foreign Relations Authorization Act, Fiscal Year 1976 (Public Law 94-141), inserted a period after "organization", struck out the text following it, and inserted the language beginning with "Appropriations are authorized". Formerly, the section following "organization" read "except that this proviso shall not apply to the International Atomic Energy Agency and to the joint financing program of the International Civil Aviation Organization."

4. United Nations Peacekeeping Forces in the Middle East

Public Law 94-37 [S. 818], Stat. 216, approved June 19, 1975, as amended by Public Law 99-93 [H.R. 2068], 99 Stat. 408, approved August 16, 1985

AN ACT To authorize United States payments to the United Nations for expenses of the United Nations peacekeeping forces in the Middle East, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of State may, to the extent funds are authorized and appropriated for this purpose, make payments of [1] such sums as may be necessary from time to time for payment by the United States of its share of the expenses of the United Nations peacekeeping forces in the Middle East, as apportioned by the United Nations in accordance with article 17 of the United Nations Charter, notwithstanding the limitation on contributions to international organizations contained in Public Law 92-544 (86 Stat. 1109).[2]

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[1] The language to this point beginning with the words "the Secretary of State," was substituted in lieu of the words "there is hereby authorized to be appropriated to the Department of State" by sec. 103 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99-93, 99 Stat. 408).

[2] The Department of State Appropriation Act, 1980 (Public Law 96-68, 93 Stat. 417), appropriated $67,000,000 for U.S. payment to the United Nations peacekeeping forces in the Middle East.

5. Response to United Nations Resolution on Zionism

a. House Resolution 855, 94th Congress, agreed to November 11, 1975 [1]

Whereas the United States, as a founder of the United Nations Organization has a fundamental interest in promoting the purposes and principles for which that organization was created; and

Whereas the Article I of the Charter of the United Nations the stated purpose of the United Nations include: "To achieve international cooperation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion;" and

Whereas the General Assembly of the United Nations decided to launch on December 10, 1973, a Decade of Action to Combat Racism and Racial Discrimination and a program of action which the United States supported and in which it desires to participate; and

Whereas the United Nations General Assembly on November 10, 1975, adopted a resolution which describes Zionism as a form of racism thereby identifying it as a target of the Decade for Action to Combat Racism and Discrimination; and

Whereas the extension of the program of the Decade to include a campaign against Zionism brings the United Nations to a point of encouraging anti-Semitism, one of the oldest and most virulent forms of racism known to human history: Now, therefore, be it

Resolved, That the House of Representatives sharply condemns the resolution adopted by the General Assembly on November 10, 1975, in that said resolution encourages anti-Semitism by wrongly associating and equating Zionism with racism and racial discrimination, thereby contradicting a fundamental purpose of the United Nations Charter; and be it

Resolved, That the House strongly opposes any form of participation by the United States Government in the Decade of Action to Combat Racism and Racial Discrimination so long as that Decade and program remain distorted and compromised by the aforementioned resolution naming Zionism as one of the targets of that struggle; and be it

Resolved, That the House calls for an energetic effort by all those concerned with the adherence of the United Nations to the purposes stated in its Charter to obtain reconsideration of the aforementioned resolution with a view to removing the subject of Zionism, which is a national but in no way a racist philosophy, from the context of any programs and discussions focusing on racism or racial discrimination.

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[1] Two similar resolutions were passed by the Senate in the 94th Congress: Senate Resolution 288, agreed to on October 28, 1975, and Senate Concurrent Resolution 73, agreed to on November 12, 1975.

b. Senate Joint Resolution 98, 99th Congress

Public Law 99-90 [S.J. Res. 98], 99 Stat. 385, approved August 15, 1985

JOINT RESOLUTION Condemning the passage of Resolution 3379, in the United Nations General Assembly on November 10, 1975, and urging the United States Ambassador and United States delegation to take all appropriate actions necessary to erase this shameful resolution from the record of the United Nations.

Whereas, on November 10, 1975, the thirtieth session of the United Nations General Assembly adopted Resolution 3379 which sought to legitimize the lie, first perpetrated at the United Nations General Assembly by representatives of the Union of Socialist Soviet Republics in 1963, that Zionism is a form of racism; and

Whereas Resolution 3379 of the thirtieth United Nations General Assembly directly contravenes the most basic principles and purposes of the United Nations Charter and undermines universal human rights values and principles; and

Whereas that infamous resolution threatens directly the integrity and legitimacy of a member state by singling out for slanderous attack the national movement which gave birth to the State of Israel; and

Whereas the adoption of Resolution 3379 by the thirtieth United Nations General Assembly constituted one of that organization's darkest moments and may fuel the flames of antisemitism and anti-Zionism; and

Whereas the United States Congress sharply condemned the passage of Resolution 3379 ten years ago "in that said resolution encourages antisemitism by wrongly associating and equating Zionism with racism": Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress—

(1) soundly denounces and condemns any linkage between Zionism and racism;

(2) considers UNGA Resolution 3379 to be a permanent smear upon the reputation of the United Nations and to be totally inconsistent with that organization's declared purposes and principles;

(3) unequivocally states that the premise of UNGA Resolution 3379 which equates Zionism with racism is itself clearly a form of bigotry; and

(4) formally repudiates UNGA Resolution 3379, and calls upon the Parliaments of all countries which value freedom and democracy to do the same.

c. Senate Joint Resolution 205, 100th Congress

Public Law 100-169 [S.J. Res. 205], 101 Stat. 913, approved November 17, 1987

JOINT RESOLUTION Expressing the sense of the Congress that United Nation's General Assembly Resolution 3379 (XXX) should be overturned, and for other purposes.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress hereby—

(1) declares that United Nations General Assembly Resolution 3379 (XXX), which equates Zionism with racism—

(A) has been unhelpful in the context of the search for a settlement in the Middle East;

(B) is inconsistent with the Charter of the United Nations;

(C) remains unacceptable as a misrepresentation of Zionism; and

(D) has served to escalate religious animosity and incite anti-Semitism; and

(2) recommends that the United States Government should lend support to efforts to overturn Resolution 3379 (XXX) in the United Nations.

6. United Nations Environment Program Participation Act of 1973

Public Law 93-188 [H.R. 6788], 87 Stat. 713, approved December 15, 1973

AN ACT To provide for participation by the United States in the United Nations environment program.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "United Nations Environment Program Participation Act of 1973".

Sec. 2. It is the policy of the United States to participate in coordinated international efforts to solve environmental problems of global and international concern, and in order to assist the implementation of this policy, to contribute funds to the United Nations Environmental Fund for the support of international measures to protect and improve the environment.

Sec. 3. There is authorized to be appropriated $40,000,000 for contributions to the United Nations Environment Fund, which amount is authorized to remain available until expended, and which may be used upon such terms and conditions as the President may specify: *Provided,* That not more than $10,000,000 may be appropriated for use in fiscal year 1974.[1]

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[1] The Foreign Assistance Appropriations Act, 1977, provided $10,000,000 for necessary expenses to carry out the provisions of sec. 2.

7. Privileges and Immunities

a. The International Organizations Immunities Act, as amended [1]

Partial text of Public Law 79-291 [H.R. 4489], 59 Stat. 669, approved December 29, 1945, as amended by Public Law 89-353 [H.R. 8210], 80 Stat. 5, approved February 2, 1966; Public Law 93-161 [H.R. 8219], 87 Stat. 635, approved November 27, 1973; Public Law 96-60 [H.R. 3363], 93 Stat. 403, approved August 15, 1979; Public Law 98-164 [Department of State Authorization Act, Fiscal Years 1984 and 1985; H.R. 2159], 97 Stat. 1017 at 1023, approved November 22, 1983; Public Law 100-204 [Foreign Relations Authorization Act, Fiscal Years 1988 and 1989; H.R. 1777], 101 Stat. 1331, approved December 22, 1987; and by Public Law 100-362 [International Organizations Immunities Act: Organization of Eastern Caribbean States; H.R. 4162], 102 Stat. 819, approved July 6, 1988

AN ACT To extend certain privileges, exemptions, and immunities to international organizations and to the officers and employees thereof, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I

Section 1.[2] For the purposes of this title the term "International organization" means a public international organization in which the United States participates pursuant to any treaty or under the authority of any Act of Congress authorizing such participation or making an appropriation for such participation, and which shall have been designated by the President through appropriate Executive order as being entitled to enjoy the privileges, exemptions, and immunities herein provided. The President shall be authorized, in the light of the functions performed by any such international organization, by appropriate Executive order to withhold or withdraw from any such organization or its officers or employees any of the privileges, exemptions, and immunities provided for in this title (including the amendments made by this title) or to condition or limit the enjoyment by any such organization or its officers or employees of any such privilege, exemption, or immunity. The President shall be authorized, if in his judgment such action should be justified by reason of the abuse by an international organization or its officers and employees of the privileges, exemptions, and immunities herein provided or for any other reason, at any time revoke the designation of any international organization under this section, whereupon the international organization in question shall cease to be classed as an international organization for the purposes of this title.[3]

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[1] Title II is unrelated to the United Nations and has been omitted here.

[2] 22 U.S.C. 288.

[3] The following international organizations are currently designated by the President as public international organizations entitled to enjoy the privileges, exemptions and immunities of the International Organizations Immunities Act:

Executive Order No.	Date	Organization
9698	Feb. 19, 1946	The Food and Agriculture Organization.
		The International Labor Organization.
		The United Nations.
9751	July 11, 1946	Inter-American Institute of Agricultural Sciences.
		Inter-American Statistical Institute.
		International Bank for Reconstruction and Development.
		International Monetary Fund.
9823	Jan. 24, 1947	International Wheat Advisory Committee.
		(International Wheat Council.)
9863	May 31, 1947	United Nations Educational, Scientific, and Cultural Organization.
		International Civil Aviation Organization.
		International Telecommunication Union.
9911	Dec. 10, 1947	International Cotton Advisory Committee.
9972	June 25, 1948	International Joint Commission, United States and Canada.
10025	Dec. 30, 1948	World Health Organization.
10086	Nov. 25, 1949	South Pacific Commission.
10133	June 27, 1950	Organization for European Economic Cooperation.
10228	Mar. 26, 1951	Inter-American Defense Board.
10335	Mar. 28, 1952	Provisional Intergovernmental Committee for the Movement of Migrants from Europe (now the Intergovernmental Committee for European Migration).
10533	June 3, 1954	Organization of American States (includes the Pan American Union, previously designated Feb. 19, 1946, by Executive Order No. 9698).
10676	Sept. 1, 1956	World Meteorological Organization.
10680	Oct. 2, 1956	International Finance Corporation.
10727	Aug. 31, 1957	International Atomic Energy Agency (included the Preparatory Commission of the International Atomic Energy Agency).
		Universal Postal Union.
10769	May 20, 1958	International Hydrographic Bureau.
10795	Dec. 13, 1958	Intergovernmental Maritime Consultative Organization.
10864	Feb. 18, 1960	Pan American Health Organization (includes the Pan American Sanitary Bureau, previously designated July 11, 1946, by Executive Order No. 9751).
10873	Apr. 8, 1960	Inter-American Development Bank.
10983	Dec. 30, 1961	Caribbean Organization.
11059	Oct. 23, 1962	Inter-American Tropical Tuna Commission.
		Great Lakes Fishery Commission.
		International Pacific Halibut Commission.
11225	May 22, 1965	International Coffee Organization.
11227	June 2, 1965	Interim Communications Satellite Committee.
11277	Apr. 30, 1966	International Telecommunications Satellite Consortium.
11283	May 27, 1966	International Cotton Institute.
11334	Mar. 7, 1967	Asian Development Bank.
11363	July 20, 1967	International Secretariat for Volunteer Service.
11372	Sept. 18, 1967	Lake Ontario Claims Tribunal (status revoked by Executive Order 11439, Dec. 7, 1968).
11484	Sept. 29, 1969	United International Bureau for the Protection of Intellectual Property (BIRPI).
11596	June 5, 1971	Customs Cooperation Council.
11718	May 14, 1973	International Telecommunications Satellite Organization.
11760	Jan. 17, 1974	European Space Research Organization (ESRO) (superseding Executive Orders 11318 and 11351).
11767	Feb. 19, 1974	Organization of African Unity.
11866	June 20, 1975	World Intellectual Property Organization.
11966	Jan. 19, 1977	International Development Association.
		International Centre for Settlement of Investment Disputes.
		International Telecommunications Satellite Organization.
11977	Mar. 14, 1977	The African Development Fund.
		The International Fertilizer Development Center.
12238	Sept. 12, 1980	International Maritime Satellite Organization.
12359	Apr. 22, 1982	The Multinational Force and Observers.
		The International Food Policy Research Institute (except for those provided by sec. 2(a)–(c), the last clause of sec. 2(d), and sec. 7(b).
12403	Feb. 8, 1983	The African Development Bank.
12425	June 16, 1983	The International Criminal Police Organization (except for those provided by sec. 2(c), the portions of secs. 2(d) and 3 relating to customs duties and federal internal-revenue importation taxes, and secs. 4 through 6).
12467	Mar. 2, 1984	The International Boundary and Water Commission, United States and Mexico.
12508	Mar. 22, 1985	World Tourism Organization.
12567	Oct. 2, 1986	Inter-American Investment Corporation.
		Commission for the Study of Alternatives to the Panama Canal.
		Pacific Salmon Commission.
12628	Mar. 8, 1988	United Nations Industrial Development Organization.
12643	June 23, 1988	International Committee of the Red Cross.
12647	Aug. 2, 1988	Multilateral Investment Guarantee Agency.
12669	Feb. 20, 1989	Organization of Eastern Caribbean States.

Sec. 2.[4] International organizations shall enjoy the status, immunities, exemptions, and privileges set forth in this section, as follows:

(a) International organizations shall, to the extent consistent with the instrument creating them, possess the capacity—

(i) to contract;

(ii) to acquire and dispose of real and personal property;

(iii) to institute legal proceedings.

(b) International organizations, their property and their assets, wherever located, and by whomsoever held, shall enjoy the same immunity from suit and every form of judicial process as is enjoyed by foreign governments, except to the extent that such organizations may expressly waive their immunity for the purposes of any proceedings or by the terms of any contract.

(c) Property and assets of international organizations, wherever located and by whomsoever held, shall be immune from search, unless such immunity be expressly waived, and from confiscation. The archives of international organizations shall be inviolable.

(d) Insofar as concerns customs duties and internal-revenue taxes imposed upon or by reason of importation, and the procedures in connection therewith; the registration of foreign agents; and the treatment of official communications, the privileges, exemptions, and immunities to which international organizations shall be entitled shall be those accorded under similar circumstances to foreign governments.

Sec. 3.[5] Pursuant to regulations prescribed by the Commissioner of Customs with approval of the Secretary of the Treasury, the baggage and effects of aliens, officers and employees of international organizations, or of aliens designated by foreign governments to serve as their representatives in or to such organizations, or of the families, suites, and servants of such officers, employees, or representatives shall be admitted (when imported in connection with the arrival of the owner) free of customs duties and free of internal-revenue taxes imposed upon or by reason of importation.

Sec. 4.[6] The Internal Revenue Code is hereby amended as follows:

(a)[7] Effective with respect to taxable years beginning after December 31, 1943, section 116(c), relating to the exclusion from gross income of income of foreign governments, is amended to read as follows:

"(c) INCOME OF FOREIGN GOVERNMENTS AND OF INTERNATIONAL ORGANIZATIONS.—The income of foreign governments or international organizations received from investments in the United States in stocks, bonds, or other domestic securities, owned by such foreign governments or by international organizations, or from interest on deposits in banks in the United States of moneys belonging to such foreign governments or international organizations, or from any other source within the United States, shall not be included in gross income and shall be exempt from taxation under this subtitle."

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[4] 22 U.S.C. 288a.

[5] 22 U.S.C. 288b.

[6] The provisions of sec. 4 are contained in title 26 of the United States Code, as noted below.

[7] 26 U.S.C. 892.

(b)[8] Effective with respect to taxable years beginning after December 31, 1943, section 116(h)(1), relating to the exclusion from gross income of amounts paid employees of foreign governments, is amended to read as follows:

"(1) RULE FOR EXCLUSION.—Wages, fees, or salary of any employee of a foreign government or of an international organization or of the Commonwealth of the Philippines (including a consular or other officer, or a nondiplomatic representative), received as compensation for official services to such government, international organization, or such Commonwealth—

"(A) If such employee is not a citizen of the United States, or is a citizen of the Commonwealth of the Philippines (whether or not a citizen of the United States); and

"(B) If, in the case of an employee of a foreign government or of the Commonwealth of the Philippines, the services are of a character similar to those performed by employees of the Government of the United States in foreign countries or in the Commonwealth of the Philippines, as the case may be; and

"(C) If, in the case of an employee of a foreign government or the Commonwealth of the Philippines the foreign government or the Commonwealth grants an equivalent exemption to employees of the Government of the United States performing similar services in such foreign country or such Commonwealth, as the case may be."

(c) Effective January 1, 1946, section 1426(b), defining the term "employment" for the purposes of the Federal Insurance Contributions Act, is amended (1) by striking out that word "or" at the end of paragraph (14), (2) by striking out the period at the end of paragraph (15) and inserting in lieu thereof a semicolon and the word "or", and (3) by inserting at the end of the subsection of the following new paragraph:

"(16)[9] Service performed in the employ of an international organization".

(d) Effective January 1, 1946, section 1607(c), defining the term "employment" for the purposes of the Federal Unemployment Tax Act, is amended (1) by striking out the word "or" at the end of paragraph (14), (2) by striking out the word "or" at the end of paragraph (14), (2) by striking out the period at the end of paragraph (15) and inserting in lieu thereof a semicolon and the word "or," and (3) by inserting at the end of the subsection the following new paragraph;

"(16)[10] Service performed in the employ of an international organization."

(e)[11] Section 1621(a)(5), relating to the definition of "wages" for the purpose of collection of income tax at the source, is amended by inserting after the words "foreign government" the words "or an international organization".

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[8] 26 U.S.C. 893(a).

[9] 26 U.S.C. 3121(b)(15).

[10] 26 U.S.C. 3306(c)(16).

[11] 26 U.S.C. 3401(a)(5).

(f) [12] Section 3466(a), relating to exemption from communications taxes is amended by inserting immediately after the words "the District of Columbia" a comma and the words "or an international organization".

(g) [13] Section 3469(f)(1), relating to exemption from the tax on transportation of persons, is amended by inserting immediately after the words "the District of Columbia" a comma and the words "or an international organization".

(h) [14] Section 3475(5)(1), relating to exemption from the tax on transportation of property, is amended by inserting immediately after the words "the District of Columbia" a comma and the words "or an international organization".

(i) Section 3797(a), relating to definitions, is amended by adding at the end thereof a new paragraph as follows:

> "(18) [15] International organization.—The term 'international organization' means a public international organization entitled to enjoy privileges, exemptions, and immunities as an international organization under the International Organizations Immunities Act."

Sec. 5. (a) [16] Effective January 1, 1946, section 209(b) of the Social Security Act, defining the term "employment" for the purposes of title II of the Act, is amended (1) by striking out the word "or" at the end of paragraph (14), (2) by striking out the period at the end of paragraph (15) and inserting in lieu thereof a semicolon and the word "or", and (3) by inserting at the end of the subsection the following new paragraph:

> "(16) Service performed in the employ of an international organization entitled to enjoy privileges, exemptions, and immunities as an international organization under the International Organizations Immunities Act."

(b) [17] No taxes shall be collected under title VIII or IX of the Social Security Act or under the Federal Insurance Contributions Act or the Federal Unemployment Tax Act, with respect to services rendered prior to January 1, 1946, which are described in paragraph (16) of sections 1426(b) and 1607(c) of the Internal Revenue Code, as amended, and any such tax heretofore collected (included penalty and interest with respect thereto, if any) shall be refunded in accordance with the provisions of law applicable in the case of erroneous or illegal collection of the tax. No interest shall be allowed or paid on the amount of any such refund. No payment shall be made under title II of the Social Security Act with respect to services rendered prior to January 1, 1946, which are described in paragraph (16) of section 209(b) of such Act, as amended.

Sec. 6.[18] International organizations shall be exempt from all property taxes imposed by, or under the authority of, any Act of

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[12] 26 U.S.C. 4253(c).

[13] 26 U.S.C. 4263(b).

[14] 26 U.S.C. 4272A(d), relating to exemption from tax on transportation property, repealed with 26 U.S.C. 4271-4273 by sec. 4(a) of Public Law 85-475 (72 Stat. 260).

[15] 26 U.S.C. 7701(a)(18).

[16] 42 U.S.C. 410(a)(15).

[17] 26 U.S.C. 3101 Historical Note, 42 U.S.C. 401 Historical Note.

[18] 22 U.S.C. 288c.

Congress, including such Acts as are applicable solely to the District of Columbia or the Territories.

Sec. 7.[19] (a) Persons designated by foreign governments to serve as their representatives in or to international organizations and the officers and employees of such organizations, and members of the immediate families of such representatives, officers, and employees residing with them, other than nationals of the United States, shall, insofar as concerns laws regulating entry into and departure from the United States, alien registration and fingerprinting, and the registration of foreign agents, be entitled to the same privileges, exemptions, and immunities as are accorded under similar circumstances to officers and employees, respectively, of foreign governments, and members of their families.

(b) Representatives of foreign governments in or to international organizations and officers and employees of such organizations shall be immune from suit and legal process relating to acts performed by them in their official capacity and falling within their functions as such representatives, officers, or employees except insofar as such immunity may be waived by the foreign government or international organization concerned.

(c) [20] Section 3 of the Immigration Act approved March 26, 1924, as amended (U.S.C., title 8, sec. 203), is hereby amended by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: "and (7) a representative of a foreign government in or to an international organization entitled to enjoy privileges, exemptions, and immunities as an international organization under the International Organizations Immunities Act, or an alien officer or employee of such an international organization,

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[19] 22 U.S.C. 288d.

[20] Sec. 3 of the Immigration Act of May 26, 1924 (8 U.S.C. 203), was repealed and replaced by sec. 101(a)(15) of the Immigration and Nationality Act of June 27, 1952 (Public Law 82-414, 66 Stat. 167, 8 U.S.C. 1101(a)(15)). Sec. 7(c) of the International Organizations Immunities Act, set forth in the text above, is now covered by sec. 101(a)(15)(G) of the Immigration and Nationality Act of June 27, 1952 (8 U.S.C. 1101(a)(15)(G)), which provided:

"(G)(i) a designated principal resident representative of a foreign government recognized de jure by the United States, which foreign government is a member of an international organization entitled to enjoy privileges, exemptions, and immunities as an international organization under the International Organizations Immunity Act (55 Stat. 669), accredited resident members of the staff of such representatives, and members of his or their immediate family;

"(ii) other accredited representatives of such a foreign government to such international organizations, and the members of their immediate families;

"(iii) an alien able to qualify under (i) or (ii) above except for the fact that the government of which such alien is an accredited representative is not recognized de jure by the United States, or that the government of which he is an accredited representative is not a member of such international organization, and the members of his immediate family;

"(iv) officers, or employees of such international organizations, and the members of their immediate families;

"(v) attendants, servants, and personal employees of any such representative, officer, or employee, and the members of the immediate families of such attendants, servants, and personal employees;"

Sec. 101(a)(15) of the Immigration and Nationality Act of June 27, 1952 (8 U.S.C. 1101(a)(15)) established thirteen categories of "nonimmigrant" aliens (aliens admitted to the United States on a temporary basis, not for permanent residence here, and therefore not subject to quota restrictions). These are: Class A, Foreign government officials; Class B, Temporary visitors; Class C, Transit aliens (including aliens entitled to pass in transit to and from the United Nations headquarters in New York City); Class D, Crewmen; Class E, Treaty traders and treaty investors; Class F, Students; Class G, International organizations personnel; Class H, Temporary workers; Class I, Foreign correspondents; Class J, Participants in a program designated by the Director of the United States Information Agency; Class K, Fiancee or fiance of a U.S. citizen entering to conclude a marriage; Class L, Temporary workers previously employed in U.S.; and Class M, Students in vocational training.

and the family, attendants, servants, and employees of such a representative, officer, or employee".

(d)[21] Section 15 of the Immigration Act approved May 26, 1924, as amended (U.S.C., title 8, sec. 215), is hereby amended to read as follows:

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[21] Sec. 15 of the Immigration Act of May 26, 1924 (8 U.S.C. 215) was repealed and replaced by secs. 102, 214, and 241 of the Immigration and Nationality Act of June 27, 1952 (8 U.S.C. 1102, 1184, 1251(e)). Sec. 7(d) of the International Organizations Immunities Act, set forth in the text above, is now covered by sec. 102 of the Immigration and Nationality Act of June 27, 1952 (8 U.S.C. 1102), which stated:

"Sec. 102. Except as otherwise provided in this Act, for so long as they continue in the nonimmigrant classes enumerated in this section, the provisions of this Act relating to ineligibility to receive visas and the exclusion or deportation of aliens shall not be construed to apply to nonimmigrants—

"(1) within the class described in paragraph (15)(A)(i) of section 101(a), except those provisions relating to reasonable requirements of passports and visas as a means of identification and documentation necessary to establish their qualifications under such paragraph (15)(A)(i), and, under such rules and regulations as the President may deem to be necessary the provisions of paragraph (27) of section 212(a);

"(2) within the class described in paragraph (15)(G)(i) of section 101(a), except those provisions relating to reasonable requirements of passports and visas as a means of identification and documentation necessary to establish their qualifications under such paragraph (15)(G)(i), and the provisions of paragraph (27) of section 212(a); and

"(3) within the classes described in paragraphs (15)(A)(ii), (15)(G)(ii), (15)(G)(iii), or (15)(G)(iv) of section 101(a), except those provisions relating to reasonable requirements of passports and visas as a means of identification and doqumentation necessary to establish their qualifications under such paragraphs, and the provisions of paragraphs (27) and (29) of section 212(a)."

Sec. 212 of the Immigration and Nationality Act of June 27, 1952 (8 U.S.C. 1182), set forth the various classes of aliens to be excluded from admission to the United States. Paragraph (27) of sec. 212(a) (8 U.S.C. 1182(a)) provides:

"(27) Aliens who the consular officer or the Attorney General knows or has reason to believe seek to enter the United States solely, principally, or incidentally to engage in activities which would be prejudicial to the public interest, or endanger the welfare, safety, or security of the United States;"

Paragraph (29) of sec. 212(a) (8 U.S.C. 1182(a)(29)) provided:

"(29) Aliens with respect to whom the consular officer or the Attorney General knows or has reasonable ground to believe probably would, after entry, (A) engage in activities which would be prohibited by the laws of the United States relating to espionage, sabotage, public disorder, or in other activity subversive to the national security, (B) engage in any activity a purpose of which is the opposition to, or the control or overthrow of, the Government of the United States, by force, violence, or other unconstitutional means, or (C) join, affiliate with, or participate in the activities of any organization which is registered or required to be registered under section 7 of the Subversive Activities Control Act of 1950;"

Sec. 102 (8 U.S.C. 1102) covered class (15)(G) (i), (ii), (iii) and (iv) cases of international organizations personnel, but did not cover (15)(G)(v) cases (attendants, servants, and personal employees of such personnel, and members of the immediate families of such attendants, servants, and personal employees). Sec. 212 (8 U.S.C. 1182) set forth various grounds of exclusion of aliens such as mental, physical, or moral defects, and therefore applied to this class of personnel. Sec. 212(d)(2) (8 U.S.C. 1182(d)(2)) contained this exception:

"(2) The provisions of paragraph (28) of subsection (a) of this section shall not be applicable to any alien who is seeking to enter the United States temporarily as a nonimmigrant under paragraph (15)(A)(iii) or (15)(G)(v) of section 101(a)."

Sec. 212(a)(28) (8 U.S.C. 1182(a)(28)) listed various classes of aliens who are excluded because of subversive activities and associations. These classes included: anarchists; opponents of all organized governments; members of the Communist Party of the United States; advocates of world communism; advocates of the overthrow by force, violence, or other unconstitutional means of the Government of the United States or of all forms of law; etc.

In this connection, note should be made of Sec. 212(d) (3) and (6) (8 U.S.C. 1182(d) (3) and (6)). Paragraph (3) provided:

"(3) Except as provided in this subsection, an alien (A) who is applying for a nonimmigrant visa and is known or believed by the consular officer to be ineligible for such visa under one or more of the paragraphs enumerated in subsection (a) (other than pars. (27), (29), and (33)), may, after approval by the Attorney General of a recommendation by the Secretary of State or by the consular officer that the alien be admitted temporarily despite his inadmissibility, be granted such a visa and may be admitted into the United States temporarily as a nonimmigrant in the discretion of the Attorney General, or (B) who is inadmissible under one or more of the paragraphs enumerated in subsection (a) (other than pars. (27), (29), and (33)), but who is in possession of appropriate documents or is granted a waiver thereof and is seeking admission, may be admitted into the United States temporarily as a nonimmigrant in the discretion of the Attorney General."

Paragraph (6) provided:

Continued

"Sec. 15. The admission to the United States of an alien excepted from the class of immigrants by clause (1), (2), (3), (4), (5), (6), or (7) of section 3, or declared to be a nonquota immigrant by subdivision (e) of section 4, shall be for such time and under such conditions as may be by regulations prescribed (including, when deemed necessary for the classes mentioned in clause (2), (3), (4), or (6) of section 3 and subdivision (e) of section 4, the giving of bond with sufficient surety, in such sum and containing such conditions as may be by regulations prescribed to insure that, at the expiration of such time or upon failure to maintain the status under which admitted, he will depart from the United States: *Provided,* That no alien who has been, or who may hereafter be, admitted into the United States under clause (1) or (7) of section 3, as an official of a foreign government, or as a member of the family of such official, or as a representative of a foreign government in or to an international organization, or as a member of the family of such representative, officer, or employee, shall be required to depart from the United States without the approval of the Secretary of State."

Sec. 8.[22] (a) No person shall be entitled to the benefits of this title unless he (1) shall have been duly notified to and accepted by the Secretary of State as a representative, officer, or employee; or (2) shall have been designated by the Secretary of State, prior to formal notification and acceptance as a prospective representative, officer, or employee; of (3) is a member of the family or suite or servant, of one of the foregoing accepted or designated representatives, officers, or employees.

(b) Should the Secretary of State determine that the continued presence in the United States of any person entitled to the benefits of this title is not desirable, he shall so inform the foreign government or international organization concerned, as the case may be, and after such person shall have had a reasonable length of time, to be determined by the Secretary of State, to depart from the United States, he shall cease to be entitled to such benefits.

(c) No person shall, by reason of the provisions of this title, be considered as receiving diplomatic status or as receiving any of the privileges incident thereto other than such as are specifically set forth herein.

"(6) The Attorney General shall proscribe conditions, including exaction of such bonds as may be necessary, to control and regulate the admission and return of excludable aliens applying for temporary admission under this subsection.

Attention is also called to secs. 214(a) and (b) (8 U.S.C. 1184 (a) and (b)), which provided:

"Sec. 214. (a) The admission to the United States of any alien as a nonimmigrant shall be for such time and under such conditions as the Attorney General may by regulations prescribe, including when he deems necessary the giving of a bond with sufficient surety in such sum and containing such conditions as the Attorney General shall prescribe, to insure that at the expiration of such time or upon failure to maintain the status under which he was admitted, or to maintain any status subsequently acquired under section 248, such alien will depart from the United States.

"(b) Every alien shall be presumed to be an immigrant until he establishes to the satisfaction of the consular officer, at the time of application for a visa, and the immigration officers, at the time of application for admission, that he is entitled to a nonimmigrant status under section 101(a)(15). An alien who is an officer or employee of any foreign government or of any international organization entitled to enjoy privileges, exemptions, and immunities under the International Organizations Immunities Act, or an alien who is the attendant, servant, employee, or member of the immediate family of any such alien shall not be entitled to apply for or receive an immigrant visa, or to enter the United States as an immigrant unless he executes a written waiver in the same form and substance as is prescribed by section 247(b)."

[22] 22 U.S.C. 288e.

Sec. 9.[23] The privileges, exemptions, and immunities of international organizations and of their officers and employees, and members of their families, suites, and servants, provided for in this title, shall be granted notwithstanding the fact that the similar privileges, exemptions, and immunities granted to a foreign government, its officers, or employees, may be conditioned upon the existence of reciprocity by that foreign government: *Provided,* That nothing contained in this title shall be construed as precluding the Secretary of State from withdrawing the privileges, exemptions, and immunities herein provided from persons who are nationals of any foreign country on the ground that such country is failing to accord corresponding privileges, exemptions, and immunities to citizens of the United States.

Sec. 10. This title may be cited at the "International Organizations Immunities Act."

Sec. 11.[24] The provisions of this title may be extended to the European Space Agency [25] and to the Organization of Eastern Caribbean States (including any office established in the United States by that organization) [26] in the same manner, to the same extent, and subject to the same conditions, as they may be extended to a public international organization in which the United States participates pursuant to any treaty or under the authority of any Act of Congress authorizing such participation or making an appropriation for such participation.

Sec. 12.[27] The provisions of this title may be extended to the Organization of African Unity and may continue to be extended to the International Labor Organization [28] in the same manner, to the same extent, and subject to the same conditions, as they may be extended to a public international organization in which the United States participates pursuant to any treaty or under the authority of any Act of Congress authorizing such participation or making an appropriation for such participation.

Sec. 13.[29] The International Committee of the Red Cross, in view of its unique status as an impartial humanitarian body named in the Geneva Conventions of 1949 and assisting in their implementation, shall be considered to be an international organization for the purposes of this title and may be extended the provisions of this title in the same manner, to the same extent, and subject to the same conditions, as such provisions may be extended to a public international organization in which the United States participates pursuant to any treaty or under the authority of any Act of Congress authorizing such participation or making an appropriation for such participation.

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[23] 22 U.S.C. 288f.

[24] Sec. 11 was added by Public Law 89-353. (80 Stat. 5).

[25] Sec. 120 of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98-164, 97 Stat. 1023) substituted the reference to the European Space Agency in lieu of a reference to the European Space Research Organization.

[26] Public Law 100-362 (102 Stat. 819) added text to this point from "and to the Organization * * *".

[27] Sec. 12 was added by Public Law 93-161 (87 Stat. 635).

[28] This reference to the International Labor Organization was added by Sec. 404 of the Department of State Authorization Act, fiscal year 1980-81 (Public Law 96-60, 93 Stat. 403).

[29] Sec. 13 was added by sec. 743 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204, 101 Stat. 1395).

b. Extending Certain Privileges to Representatives of Member States on the Council of the Organization of American States

Public Law 82-486 [S. 2042], 66 Stat. 516, 22 U.S.C. 288g, approved July 10, 1952, as amended by Public Law 93-149 [H.R. 5943], 87 Stat. 560, approved November 7, 1973

AN ACT To extend certain privileges to the representatives of member states and permanent observers to the Organization of American States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, under such terms and conditions as he shall determine, the President is hereby authorized to extend, or to enter into an agreement extending, to the representatives of member states (other than the United States) to the Organization of American States and to permanent observers to the Organization of American States, and to members of the staff of said representatives and permanent observers, the same privileges and immunities, subject to corresponding conditions and obligations, as are enjoyed by diplomatic envoys accredited to the United States.[1]

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[1] As amended and restated by Public Law 93-149. The text formerly read: "That, under such terms and conditions as he shall determine, the President is hereby authorized to extend, or to enter into an agreement extending, to the representatives of member states (other than the United States) on the Council of the Organization of American States, and to members of their staffs, the same privileges and immunities, subject to corresponding conditions and obligations, as are enjoyed by diplomatic envoys accredited to the United States."

c. Extending Diplomatic Privileges to the Mission of the Commission of the European Communities

Public Law 92-499 [S. 2700], 86 Stat. 815, approved October 18, 1972, as amended by Public Law 100-204 [Foreign Relations Authorization Act, Fiscal Years 1988 and 1989; H.R. 1777], 101 Stat. 1331, approved December 22, 1987

AN ACT To extend diplomatic privileges and immunities to the Mission to the United States of America of the Commission of the European Communities and to members thereof.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, under such terms and conditions as he shall determine and consonant with the purposes of this Act, the President is authorized to extend, or to enter into an agreement extending, to the Mission to the United States of America of the Commission of the European Communities, and to members thereof, the same privileges and immunities subject to corresponding conditions and obligations as are enjoyed by diplomatic missions accredited to the United States and by members thereof. Under such terms and conditions as the President may determine, the President is authorized to extend to other offices of the Commission of the European Communities which are established in the United States, and to members thereof—

(1) the privileges and immunities described in the preceding sentence; or

(2) as appropriate for the functioning of a particular office, privileges and immunities, equivalent to those accorded consular premises, consular offices, and consular employees, pursuant to the Vienna Convention on Consular Relations.[1]

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[1] The last sentence was added by sec. 741 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204, 101 Stat. 1394).

d. Act for the Protection of Foreign Officials and Official Guests of the United States [1]

Public Law 92-539 [H.R. 15883], 86 Stat. 1070, approved October 24, 1972

AN ACT To amend title 18, United States Code, to provide for expanded protection of foreign officials, and for other purposes.

STATEMENT OF FINDINGS AND DECLARATION OF POLICY

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Act for the Protection of Foreign Officials and Official Guests of the United States".

Sec. 2. The Congress recognizes that from the beginning of our history as a nation, the police power to investigate, prosecute, and punish common crimes such as murder, kidnaping, and assault has resided in the several States, and that such power should remain with the States.

The Congress finds, however, that harassment, intimidation, obstruction, coercion, and acts of violence committed against foreign officials or their family members in the United States or against official guests of the United States adversely affect the foreign relations of the United States.

Accordingly, this legislation is intended to afford the United States jurisdiction concurrent with that of the several States to proceed against those who by such acts interfere with its conduct of foreign affairs.

TITLE I—MURDER OR MANSLAUGHTER OF FOREIGN OFFICIALS AND OFFICIAL GUESTS

Sec. 101. Chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following new sections:

"§ 1116.[2] Murder or manslaughter of foreign officials, official guests, or internationally protected persons

"(a) Whoever kills or attempts to kill a foreign official, official guest, or internationally protected person shall be punished as provided under sections 1111, 1112, and 1113 of this title, except that any such person who if found guilty of murder in the first degree shall be sentenced to imprisonment for life, and any such person who is found guilty of attempted murder shall be imprisoned for not more than twenty years.

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[1] While this Act has never been amended, the various sections of chapter 51 of title 18, U.S.C. contained herein were substantially amended by the Act for the Prevention and Punishment of Crimes Against Internationally Protected Persons (Public Law 94-467, 90 Stat. 1997). These amendments have been incorporated in the text found in this Act. See also sec. 878 of chapter 41 of title 18, U.S.C., which concerns threats and extortion against foreign officials, official guests, or internationally protected persons (page 998).

[2] Sec. 1116, as added by this Act, was amended and restated by sec. 2 of Public Law 94-467.

"(b) For the purposes of this section:

"(1) 'Family' includes (a) a spouse, parent, brother or sister, child, or person to whom the foreign official of internationally protected person stands in loco parentis, or (b) any other person living in his household and related to the foreign official or internationally protected person by blood or marriage.

"(2) 'Foreign government' means the government of a foreign country, irrespective of recognition by the United States.

"(3) 'Foreign official' means—

"(A) a Chief of State or the political equivalent, President, Vice President, Prime Minister, Ambassador, Foreign Minister, or other officer of Cabinet rank or above of a foreign government or the chief executive officer of an international organization, or any person who has previously served in such capacity, and any member of his family, while in the United States; and

"(B) any person of a foreign nationality who is duly notified to the United States as an officer or employee of a foreign government or international organization, and who is in the United States on official business, and any member of his family whose presence in the United States is in connection with the presence of such officer or employee.

"(4) 'Internationally protected person' means—

"(A) a Chief of State or the political equivalent, head of government, or Foreign Minister whenever such person is in a country other than his own and any member of his family accompanying him; or

"(B) any other representative, officer, employee, or agent of the United States Government, a foreign government, or international organization who at the time and place concerned is entitled pursuant to international law to special protection against attack upon his person, freedom, or dignity, and any member of his family then forming part of his household.

"(5) 'International organization' means a public international organization designated as such pursuant to section 1 of the International Organizations Immunities Act (22 U.S.C. 288) or a public organization created pursuant to treaty or other agreement under international law as an instrument through or by which two or more foreign governments engage in some aspect of their conduct of international affairs.[3]

"(6) 'Official guest' means a citizen or national of a foreign country present in the United States as an official guest of the Government of the United States pursuant to designation as such by the Secretary of State.

"(c) If the victim of an offense under subsection (a) is an internationally protected person, the United States may exercise jurisdiction over the offense if the alleged offender is present within the United States, irrespective of the place where the offense was committed or the nationality of the victim or the alleged offender. As used in this subsection, the United States includes all areas under the jurisdiction of the United States including any of the places within the provisions of sections 5 and 7 of this title and section 101(38) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301(38)).

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[3] The words to this point beginning with "or a public organization created pursuant to * * *" were added by sec. 3 of Public Law 97-351 (96 Stat. 1666).

"(d) In the course of enforcement of this section and any other sections prohibiting a conspiracy or attempt to violate this section, the Attorney General may request assistance from any Federal, State, or local agency, including the Army, Navy, and Air Force, any statute, rule, or regulation to the contrary notwithstanding.".

"§ 1117. Conspiracy to murder

"If two or more persons conspire to violate section 1111, 1114, or 1116 of this title, and one or more of such persons do any overt act to effect the object of the conspiracy, each shall be punished by imprisonment for any term of years or for life."

Sec. 102. The analysis of chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following new items:

"1116. Murder or manslaughter of foreign officials, official guests, or internationally protected persons." [4]

"1117. Conspiracy to murder."

TITLE II—KIDNAPING

Sec. 201. Section 1201 of title 18, United States Code, is amended to read as follows:

"§ 1201. Kidnaping

"(a) Whoever unlawfully seizes, confines, inveigles, decoys, kidnaps, abducts, or carries away and holds for ransom or reward or otherwise any person, except in the case of a minor by the parent thereof, when:

"(1) the person is willfully transported in interstate or foreign commerce;

"(2) any such act against the persons is done within the special maritime and territorial jurisdiction of the United States;

"(3) any such act against the person is done within the special aircraft jurisdiction of the United States as defined in section 101(36) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301(32)); or

"(4) [5] the person is a foreign official, an internationally protected person, or an official guest as those terms are defined in section 1116(b) of this title,"; and

"(b) With respect to subsection (a)(1), above, the failure to release the victim within twenty-four hours after he shall have been unlawfully seized, confined, inveigled, decoyed, kidnaped, abducted, or carried away shall create a rebuttable presumption that such person has been transported in interstate or foreign commerce.

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[4] The words "internationally protected persons" were added to this analysis by sec. 3 of Public Law 94-467.

[5] Paragraph (4) was amended and restated by sec. 4(a) of Public Law 94-467.

"(c) If two or more persons conspire to violate this section and one or more of such persons do any overt act to effect the object of the conspiracy, each shall be punished by imprisonment for any term of years or for life."

"(d) [6] Whoever attempts to violate subsection (a)(4) shall be punished by imprisonment for not more than twenty years.

"(e) [6] If the victim of an offense under subsection (a) is an internationally protected person, the United States may exercise jurisdiction over the offense if the alleged offender is present within the United States irrespective of the place where the offense was committed or the nationality of the victim or the alleged offender. As used in this subsection, the United States includes all areas under the jurisdiction of the United States including any of the places within the provisions of section 5 and 7 of this title and section 101(38) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301(34)).

"(f) [6] In the course of enforcement of subsection (a)(4) and any other sections prohibiting a conspiracy or attempt to violate subsection (a)(4), the Attorney General may request assistance from any Federal, State, or local agency, including the Army, Navy, and Air Force, any statute, rule, or regulation to the contrary notwithstanding.".

Sec. 202. The analysis of chapter 55 of title 18, United States Code, is amended by deleting

"1201. Transportation.",

and substituting the following:

"1201. Kidnaping."

TITLE III—PROTECTION OF FOREIGN OFFICIALS AND OFFICIAL GUESTS

Sec. 301. Section 112 of title 18, United States Code, is amended to read as follows:

"§ 112.[7] Protection of foreign officials, official guests, and internationally protected persons

"(a) Whoever assaults, strikes, wounds, imprisons, or offers violence to a foreign official, official guest, or internationally protected person or makes any other violent attack upon the person or liberty of such person, or, if likely to endanger his person or liberty, makes a violent attack upon his official premises, private accommodation, or means of transport or attempts to commit any of the foregoing shall be fined not more than $5,000 or imprisoned not more than three years, or both. Whoever in the commission of any such act uses a deadly or dangerous weapon shall be fined not more than $10,000 or imprisoned not more than ten years, or both.

"(b) Whoever willfully—

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[6] Subsecs. (d), (e), and (f) were added by sec. 4(b) of Public Law 94-467.

[7] Sec. 112 was amended and restated by sec. 5 of Public Law 94-467.

"(1) intimidates, coerces, threatens, or harasses a foreign official or an official guest or obstructs a foreign official in the performance of his duties;

"(2) attempts to intimidate, coerce, threaten, or harass a foreign official or an official guest or obstruct a foreign official in the performance of his duties; or

"(3) within the United States but outside the District of Columbia and within one hundred feet of any building or premises in whole or in part owned, used, or occupied for official business or for diplomatic, consular, or residential purposes by—

"(A) a foreign government, including such use as a mission to an international organization;

"(B) an international organization;

"(C) a foreign official; or

"(D) an official guest;

congregates with two or more other persons with intent to violate any other provision of this section;

shall be fined not more than $500 or imprisoned not more than six months, or both.

"(c) For the purpose of this section 'foreign government', 'foreign official', 'internationally protected person', 'international organization', and 'official guest' shall have the same meanings as those provided in section 1116(b) of this title.

"(d) Nothing contained in this section shall be construed or applied so as to abridge the exercise of rights guaranteed under the first amendment to the Constitution of the United States.

"(e) If the victim of an offense under subsection (a) is an internationally protected person, the United States may exercise jurisdiction over the offense if the alleged offender is present within the United States, irrespective of the place where the offense was committed or the nationality of the victim or the alleged offender. As used in this subsection, the United States includes all areas under the jurisdiction of the United States including any of the places within the provisions of sections 5 and 7 of this title and section 101(38) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301(38)).

"(f) In the course of enforcement of subsection (a) and any other sections prohibiting a conspiracy or attempt to violate subsection (a), the Attorney General may request assistance from any Federal, State, or local agency, including the Army, Navy, and Air Force, any statute, rule, or regulation to the contrary, notwithstanding.".

Sec. 302. The analysis of chapter 7 of title 18, United States Code, is amended by deleting

"112. Assaulting certain foreign diplomats and other official personnel."

and adding at the beginning thereof the following new item:

"112. Protection of foreign officials, official guests, and internationally protected persons.".[8]

TITLE IV—PROTECTION OF PROPERTY OF FOREIGN GOVERNMENTS AND INTERNATIONAL ORGANIZATIONS

Sec. 401. Chapter 45 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 970. Protection of property occupied by foreign governments

"(a) Whoever willfully injures, damages, or destroys, or attempts to injure, damage, or destroy, any property, real or personal, located within the United States and belonging to or utilized or occupied by any foreign government or international organization, by a foreign official or official guest, shall be fined not more than $10,000, or imprisoned not more than five years, or both.

"(b) [9] Whoever, willfully with intent to intimidate, coerce, threaten, or harass—

"(1) forcibly thrusts any part of himself or any object within or upon that portion of any building or premises located within the United States, which portion is used or occupied for official business or for diplomatic, consular, or residential purposes by—

"(A) a foreign government, including such use as a mission to an international organization;

"(B) an international organization;

"(C) a foreign official; or

"(D) an official guest; or

"(2) refuses to depart from such portion of such building or premises after a request—

"(A) by an employee of a foreign government or of an international organization, if such employee is authorized to make such request by the senior official of the unit of such government or organization which occupies such portion of such building or premises;

"(c) [9] For the purpose of this section 'foreign government', 'foreign official', 'international organization', and 'official guest' shall have the same meanings as those provided in section 116(b) of this title."

Sec. 402. The analysis of Chapter 45 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"970. Protection of property occupied by foreign governments."

Sec. 3. Nothing contained in this Act shall be construed to indicate an intent on the part of Congress to occupy the field in which its provisions operate to the exclusion of the laws of any State, Commonwealth, territory, possession, or the District of Columbia on the same subject matter, nor to relieve any person of any obligation imposed by any law of any State, Commonwealth, territory, possession, or the District of Columbia.

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[8] Sec. 6 of Public Law 94-467 added the words "and internationally protected persons" to this analysis.

[9] Sec. 7 of Public Law 94-467 added a new subsec. (b), amended and restated the old subsec. (b), and redesignated it as subsec. (c).

e. Executive Protective Service

(1) Protection of Foreign Diplomatic Missions by the U.S. Secret Service

Public Law 97-418 [H.R. 6254], 96 Stat. 2089, approved January 4, 1983

AN ACT To amend title 3, United States Code, to clarify the function of the United States Secret Service Uniformed Division with respect to certain foreign diplomatic missions in the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 202(7)(C) of title 3, United States Code,[1] is amended by inserting "may be provided for motorcades and at other places associated with such a visit and" after "protection".

(b) Section 208(b) of title 3, United States Code,[2] is amended to read as follows:

"(b) There is authorized to be appropriated, in addition to such sums as have been heretofore appropriated under this section—

"(1) $7,000,000 for each fiscal year beginning after September 30, 1982, for the payment of reimbursement obligations entered into under subsection (a) after such date; and

"(2) $17,700,000 for the payment of reimbursement obligations entered into under subsection (a) before October 1, 1982.

Amounts appropriated under this subsection shall remain available until expended.".

Sec. 2. The amendments made by the first section of this Act shall take effect on the date of enactment of this Act, except that no amount authorized to be appropriated by the amendment made by subsection (b) of the first section of this Act may be made available for use or obligation prior to October 1, 1982.

Sec. 3. In order to assure effective security at the United States mission to the United Nations, and to promote efficient use of Federal security resources, the Secretary of the Treasury and the Secretary of State shall consult with the Secretary of the Navy with regard to placement of Marine security guard services within such mission and shall report thereon to the Congress not later than sixty days after the date of enactment of this Act.

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[1] Sec. 202 of title 3, U.S.C., established, among other things, the powers and duties of the U.S. Secret Service Uniformed Division. Phrase (7) of such section, as amended, stipulated U.S. Secret Service protection of the following:

"(7) foreign diplomatic missions located in metropolitan areas (other than the District of Columbia) in the United States where there are located twenty or more such missions headed by full-time officers, except that such protection shall be provided only (A) on the basis of extraordinary protective need, (B) upon request of the affected metropolitan area, and (C) when the extraordinary protective need arises in association with a visit to or occurs at a permanent mission to an international organization of which the United States is a member or an observer mission invited to participate in the work of such organization, provided that such protection may be provided for motorcades and at other places associated with such a visit and may be extended at places of temporary domicile in connection with such a visit."

[2] Sec. 208(b) of title 3, U.S.C., provided for the authorization of appropriations to reimburse state and local governments for costs associated with the use of state and local government facilities, personnel, services, and equipment in connection with visits to foreign missions in the United States, as described in sec. 202(7)(C) of such title. See footnote 1 for text of sec. 202(7)(C).

(2) Transfer of Authority to the Secretary of State To Make Reimbursements for Protection of Foreign Missions to International Organizations

Executive Order 12478, May 23, 1984, 49 F.R. 22053

By authority vested in me as President by the Constitution and statutes of the United States of America, and in accordance with the provisions of the Act of December 31, 1975, Public Law 94–196 (89 Stat. 1109), codified as sections 202(7) and 208(a) of Title 3, United States Code, as amended, it is hereby ordered as follows:

Section 1. There is transferred to the Secretary of State authority to determine the need for and to approve terms and conditions of the provision of reimbursable extraordinary protective activities for foreign diplomatic missions pursuant to section 202(7), and the authority to make reimbursements to State and local governments for services, personnel, equipment, and facilities pursuant to section 208(a) of Title 3, United States Code;

Sec. 2. There are transferred to the Secretary of State such unexpended moneys as may have been appropriated to the Department of the Treasury for the purpose of permitting reimbursements to be made under the provisions of section 208(a) of Title 3, United States Code;

Sec. 3. The authority transferred pursuant to this Order shall be exercised in coordination with protective security programs administered by the Secretary of State under the Foreign Missions Act of 1982;[1] authority available under that Act may also be applied to any foreign mission to which section 202(7) applies; and

Sec. 4. This Order shall be effective on October 1, 1984.

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[1] For text, see page 232.

f. Act for the Prevention and Punishment of Crimes Against Internationally Protected Persons [1]

Partial text of Public Law 94-467 [H.R. 15552], 90 Stat. 1997, approved October 8, 1976; as amended by Public Law 95-163 [H.R. 6010], 91 Stat. 1286, approved November 9, 1977; and by Public Law 95-504 [S. 2493], 92 Stat. 1705, approved October 24, 1978

AN ACT To amend title 18, United States Code, to implement the "Convention To Prevent and Punish the Act of Terrorism Taking the Form of Crimes Against Persons and Related Extortion That Are of International Significance" and the "Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents", and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Act for the Prevention and Punishment of Crimes Against Internationally Protected Persons".

* * * * * * *

Sec. 8. Chapter 41 of title 18, United States Code, is amended by adding a new section 878 as follows:

§ 878. Threats and extortion against foreign officials, official guests, or internationally protected persons

"(a) Whoever knowingly and willfully threatens to violate section 112, 1116, or 1201 by killing, kidnaping, or assaulting a foreign official, official guest, or internationally protected person shall be fined not more than $5,000 or imprisoned not more than five years, or both, except that imprisonment for a threatened assault shall not exceed three years.

"(b) Whoever in connection with any violation of subsection (a) or actual violation of section 112, 1116, or 1201 makes any extortionate demand shall be fined not more than $20,000 or imprisoned not more than twenty years, or both.

"(c) For the purpose of this section 'foreign official', 'internationally protected person', and 'official guest' shall have the same meanings as those provided in section 1116(a) of this title.

"(d) If the victim of an offense under subsection (a) is an internationally protected person, the United States may exercise jurisdiction over the offense if the alleged offender is present within the United States, irrespective of the place where the offense was committed or the nationality of the victim or the alleged offender. As used in this subsection, the United States includes all areas under the jurisdiction of the United States including any of the places within the provisions of section 5 and 7 of this title and section

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[1] Except for secs. 8 through 11, this Act amended title 18, U.S.C., which was also amended by the Act for the Protection of Foreign Officials and Officials Guests of the United States (Public Law 92-539). All amendments made by this Act to sections contained in Public Law 92-539 were incorporated in the text of the latter. For text, see page 989.

101(38) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301(38)).".

Sec. 9. The analysis of chapter 41 of title 18, United States Code, is amended by inserting at the end thereof the following new item:

"878. Threat and extortion against foreign officials, official guests, and internationally protected persons.".

Sec. 10. Nothing contained in this Act shall be construed to indicate an intent on the part of Congress to occupy the field in which its provisions operate to the exclusion of the laws of any State, Commonwealth, territory, possession, or the District of Columbia, on the same subject matter, not to relieve any person of any obligation imposed by any law of any State, Commonwealth, territory, possession, or the District of Columbia, including the obligation of all persons having official law enforcement powers to take appropriate action, such as effecting arrests, for Federal as well as non-Federal violations.

Sec. 11. Section 11 of title 18, United States Code, is amended by inserting after the word "title" the words "except in sections 112, 878, 970, 1116, and 1201".

g. Foreign Sovereign Immunities Act of 1976 [1]

Public Law 94-583 [H.R. 11315], 90 Stat. 2891, approved October 21, 1976

AN ACT To define the jurisdiction of United States courts in suits against foreign states, the circumstances in which foreign states are immune from suit and in which execution may not be levied on their property, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Foreign Sovereign Immunities Act of 1976".

Sec. (a) That chapter 85 of title 28, United States Code, is amended by inserting immediately before section 1331 the following new section:

"§ 1330. Actions against foreign states

"(a) The district courts shall have original jurisdiction without regard to amount in controversy of any nonjury civil action against a foreign state as defined in section 1603(a) of this title as to any claim for relief in personae with respect to which the foreign state is not entitled to immunity either under sections 1605–1607 of this title or under any applicable international agreement.

"(b) Personal jurisdiction over a foreign state shall exist as to every claim for relief over which the district courts have jurisdiction under subsection (a) where service has been made under section 1608 of this title.

"(c) For purposes of subsection (b), an appearance by a foreign state does not confer personal jurisdiction with respect to any claim for relief not arising out of any transaction or occurrence enumerated in sections 1605–1607 of this title.".

(b) By inserting in the chapter analysis of that chapter before—

"1331. Federal question; amount in controversy; costs."

the following new item:

"1330. Actions [2] against foreign states.".

Sec. 3. That section 1332 of title 28, United States Code, is amended by striking subsections (a)(2) and (3) and substituting in their place the following:

"(2) citizens of a State and citizens or subjects of a foreign state;

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[1] While this Act has never been amended, the various sections of title 28, U.S.C. contained herein were substantially amended by the Foreign Sovereign Immunities Act, Amendments (Public Law 100–640, 102 Stat. 3333); Implementation of the Inter-American Convention on International Commercial Arbitration Act (Public Law 100–669, 102 Stat. 3969); and the Judicial Improvements and Access to Justice Act (Public Law 100–702, 102 Stat. 4642). These amendments have been incorporated into this Act.

[2] Sec. 1020(a)(7) of Public Law 100–702 (102 Stat. 4672) amended "Action" to read "Actions".

"(3) citizens of different States and in which citizens or subjects of a foreign state are additional parties; and

"(4) a foreign state, defined in section 1603(a) of this title, as plaintiff and citizens of a State or of different States.".

Sec. 4. (a) That title 28, United States Code, is amended by inserting after chapter 95 the following new chapter:

"Chapter 97.—JURISDICTIONAL IMMUNITIES OF FOREIGN STATES

"Sec.
"1602. Findings and declaration of purpose.
"1603. Definitions.
"1604. Immunity of a foreign state from jurisdiction.
"1605. General exceptions to the jurisdictional immunity of a foreign state.
"1606. Extent of liability.
"1607. Counterclaims.
"1608. Service; time to answer default.
"1609. Immunity from attachment and execution of property of a foreign state.
"1610. Exceptions to the immunity from attachment or execution.
"1611. Certain types of property immune from execution.

"§ 1602. Findings and declaration of purpose

"The Congress finds that the determination by United States courts of the claims of foreign states to immunity from the jurisdiction of such courts would serve the interests of justice and would protect the rights of both foreign states and litigants in United States courts. Under international law, states are not immune from the jurisdiction of foreign courts insofar as their commercial activities are concerned, and their commercial property may be levied upon for the satisfaction of judgments rendered against them in connection with their commercial activities. Claims of foreign states to immunity should henceforth be decided by courts of the United States and of the States in conformity with the principles set forth in this chapter.

"§ 1603. Definitions

"For purposes of this chapter—

"(a) A 'foreign state', except as used in section 1608 of this title, includes a political subdivision of a foreign state or an agency or instrumentality of a foreign state as defined in subsection (b).

"(b) An 'agency or instrumentality of a foreign state' means any entity—

"(1) which is a separate legal person, corporate or otherwise, and

"(2) which is an organ of a foreign state or political subdivision thereof, or a majority of whose shares or other ownership interest is owned by a foreign state or political subdivision thereof, and

"(3) which is neither a citizen of a State of the United States as defined in section 1332 (c) and (d) of this title, nor created under the laws of any third country.

"(c) The 'United States' includes all territory and waters, continental or insular, subject to the jurisdiction of the United States.

"(d) A 'commercial activity' means either a regular course of commercial conduct or a particular commercial transaction or act. The commercial character of an activity shall be determined by reference to the nature of the course of conduct or particular transaction or act, rather than by reference to its purpose.

"(e) A 'commercial activity carried on in the United States by a foreign state' means commercial activity carried on by such state and having substantial contact with the United States.

"§ 1604. Immunity of a foreign state from jurisdiction

"Subject to existing international agreements to which the United States is a party at the time of enactment of this Act a foreign state shall be immune from the jurisdiction of the courts of the United States and of the States except as provided in sections 1605 to 1607 of this chapter.

"§ 1605. General exceptions to the jurisdictional immunity of a foreign state

"(a) A foreign state shall not be immune from the jurisdiction of courts of the United States or of the States in any case—

"(1) in which the foreign state has waived its immunity either explicitly or by implication, notwithstanding any withdrawal of the waiver which the foreign state may purport to effect except in accordance with the terms of the waiver;

"(2) in which the action is based upon a commercial activity carried on in the United States by the foreign state; or upon an act performed in the United States in connection with a commercial activity of the foreign state elsewhere; or upon an act outside the territory of the United States in connection with a commercial activity of the foreign state elsewhere and that act causes a direct effect in the United States;

"(3) in which rights in property taken in violation of international law are in issue and the property or any property exchanged for such property is present in the United States in connection with a commercial activity carried on in the United States by the foreign state; or that property or any property exchanged for such property is owned or operated by an agency or instrumentality of the foreign state and that agency or instrumentality is engaged in a commercial activity in the United States;

"(4) in which rights in property in the United States acquired by succession or gift or rights in immovable property situated in the United States are in issue; [3]

"(5) not otherwise encompassed in paragraph (2) above, in which money damages are sought against a foreign state for personal injury or death, or damage to or loss of property, occurring in the United States and caused by the tortious act or omission of that foreign state or of any official or employee of that foreign state while acting within the scope of his office or employment; except this paragraph shall not apply to—

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[3] Sec. 2 of Public Law 100–669 (102 Stat. 3969) struck out "or" at the end of paragraph (4); ended par. (5)(B) with "; or" and inserted a new par. (6).

"(A) any claim based upon the exercise on performance or the failure to exercise or perform a discretionary function regardless of whether the discretion be abused, or

"(B) any claim arising out of malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit, or interference with contract rights; or [3]

"(6) [3] in which the action is brought, either to enforce an agreement made by the foreign State with or for the benefit of a private party to submit to arbitration all or any difference which have arisen or which may arise between the parties with respect to a defined legal relationship, whether contractual or not, concerning a subject matter capable of settlement by arbitration under the laws of the Untied States, or to confirm an award made pursuant to such an agreement to arbitrate, if (A) the arbitration takes place or is intended to take place in the United States, (B) the agreement or award is or may be governed by a treaty or other international agreement in force for the United States calling for the recognition and enforcement of arbitral awards, (C) the underlying claim, save for the agreement to arbitrate, could have been brought in a United States court under this section or section 1607, or (D) paragraph (1) of this subsection is otherwise applicable.

"(b) A foreign state shall not be immune from the jurisdiction of the courts of the United States in any case in which a suit in admiralty is brought to enforce a maritime lien against a vessel or cargo of the foreign state, which maritime lien is based upon a commercial activity of the foreign state: *Provided,* That—

"(1) notice of the suit is given by delivery of a copy of the summons and of the complaint to the person, or his agent, having possession of the vessel or cargo against which the maritime lien is asserted; and if the vessel or cargo is arrested pursuant to process obtained on behalf of the party bringing the suit, the service of process of arrest shall be deemed to constitute valid delivery of such notice, but the party bringing the suit shall be liable for any damages sustained by the foreign state as a result of the arrest if the party bringing the suit had actual or constructive knowledge that the vessel or cargo of a foreign state was involved; and [4]

"(2) notice to the foreign state of the commencement of suit as provided in section 1608 of this title is initiated within ten days either of the delivery of notice as provided in paragraph (1) of this subsection [5] or, in the case of a party who was unaware that the vessel or cargo of a foreign state was involved, of the date such party determined the existence of the foreign state's interest.

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[4] Sec. 1(1) of Public Law 100-640 (102 Stat. 3333) inserted text to this point from the semicolon, and struck out the following: "but such notice shall not be deemed to have been delivered, nor may it thereafter be delivered, if the vessel or cargo is arrested pursuant to process obtained on behalf of the party bringing the suit—unless the party was unaware that the vessel or cargo of a foreign state was involved, in which event the service of process of arrest shall be deemed to constitute valid delivery of such notice; and".

[5] Sec. 1(2) of Public Law 100-640 (102 Stat. 3333) struck out "subsection (b)(1) of this section" at this point and inserted in lieu thereof reference to "paragraph (1)".

"(c) [6] Whenever notices is delivered under subsection (b)(1), the suit to enforce a maritime lien shall be thereafter proceed and shall be heard and determined according to the principles of law and rules of practice of suits in rem whenever it appears that, had the vessel been privately owned and possessed, a suit in rem might have been maintained. A decree against the foreign state may include costs of the suit and, if the decree is for a money judgment, interest as ordered by the court, except that the court may not award judgment against the foreign state in an amount greater than the value of the vessel or cargo upon which the maritime lien arose. Such value shall be determined as of the time notice is served under subsection (b)(1). Decrees shall be subject to appeal and revision as provided in other cases of admiralty and maritime jurisdiction. Nothing shall preclude the plaintiff in any proper case from seeking relief in personam in the same action brought to enforce a maritime lien as provided in this section.

"(d) [6] A foreign state shall not be immune from the jurisdiction of the courts of the United States in any action brought to foreclose a preferred mortgage, as defined in the Ship Mortgage Act, 1920 (46 U.S.C. 911 and following). Such action shall be brought, heard, and determined in accordance with the provisions of that Act and in accordance with the principles of law and rules of practice of suits in rem, whenever it appears that had the vessel been privately owned and possessed a suit in rem might have been maintained.

"§ 1606. Extent of liability

"As to any claim for relief with respect to which a foreign state is not entitled to immunity under section 1605 or 1607 of this chapter, the foreign state shall be liable in the same manner and to the same extent as a private individual under like circumstances; but a foreign state except for an agency or instrumentality thereof shall not be liable for punitive damages; if, however, in any case wherein death was caused, the law of the place where the action or omission occurred provides, or has been construed to provide, for damages only punitive in nature, the foreign state shall be liable for actual or compensatory damages measured by the pecuniary injuries resulting from such death which were incurred by the persons for whose benefit the action was brought.

"§ 1607. Counterclaims

"In any action brought by a foreign state, or in which a foreign state intervenes, in a court of the United States or of a State, the foreign state shall not be accorded immunity with respect to any counterclaim—

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[6] Sec. 1(3) of Public Law 100-640 struck out all that followed par. (2) in this section and inserted a new subsec. (c) and (d). The struck out text read as follows:

"Whenever notice is delivered under subsection (b)(1) of this section, the maritime lien shall thereafter be deemed to be an in personam claim against the foreign state which at that time owns the vessel or cargo involved: *Provided,* That a court may not award judgment against the foreign state in an amount greater than the value of the vessel or cargo upon which the maritime lien arose, such value to be determined as of the time notice is served under subsection (b)(1) of this section."

"(a) for which a foreign state would not be entitled to immunity under section 1605 of this chapter had such claim been brought in a separate action against the foreign state; or

"(b) arising out of the transaction or occurrence that is the subject matter of the claim of the foreign state; or

"(c) to the extent that the counterclaim does not seek relief exceeding in amount or differing in kind from that sought by the foreign state.

"§ 1608. Service; time to answer; default

"(a) Service in the courts of the United States and of the States shall be made upon a foreign state or political subdivision of a foreign state:

"(1) by delivery of a copy of the summons and complaint in accordance with any special arrangement for service between the plaintiff and the foreign state or political subdivision; or

"(2) if no special arrangement exists, by delivery of a copy of the summons and complaint in accordance with an applicable international convention on service of judicial documents; or

"(3) if service cannot be made under paragraph (1) or (2), by sending a copy of the summons and complaint and a notice of suit, together with a translation of each into the official language of the foreign state, by any form of mail requiring a signed receipt, to be addressed and dispatched by the clerk of the court to the head of the ministry of foreign affairs of the foreign state concerned, or

"(4) if service cannot be made within 30 days under paragraph (3), by sending two copies of the summons and complaint and a notice of suit, together with a translation of each into the official language of the foreign state, by any form of mail requiring a signed receipt, to be addressed and dispatched by the clerk of the court to the Secretary of State in Washington, District of Columbia, to the attention of the Director of Special Consular Services—and the Secretary shall transmit one copy of the papers through diplomatic channels to the foreign state and shall send to the clerk of the court a certified copy of the diplomatic note indicating when the papers were transmitted.

As used in this subsection, a 'notice of suit' shall mean a notice addressed to a foreign state and in a form prescribed by the Secretary of Safety regulation.

"(b) Service in the courts of the United States and of the States shall be made upon an agency or instrumentality of a foreign state:

"(1) by delivery of a copy of the summons and complaint in accordance with any special arrangement for service between the plaintiff and the agency or instrumentality; or

"(2) if no special arrangement exists, by delivery of a copy of the summons and complaint either to an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service or process in the United States; or in accordance with an applicable international convention or service on judicial document; or

"(3) if service cannot be made under paragraph (1) or (2), and if reasonably calculated to given actual notice, by delivery of a copy of the summons and complaint, together with a translation of each into the official language of the foreign state—

"(A) as directed by an authority of the foreign state or political subdivision in response to a letter rogatory or request or

"(B) by any form of mail requiring a signed receipt, to be addressed and dispatched by the clerk of the court to the agency or instrumentality to be served, or

"(C) as directed by order of the court consistent with the law of the place where service is to be made.

"(c) Service shall be deemed to have been made—

"(1) in the case of service under subsection (a)(4), as of the date of transmittal indicated in the certified copy of the diplomatic note; and

"(2) in any other case under this section, as of the date of receipt indicated in the certification, signed and returned postal receipt, or other proof of service applicable to the method of service employed.

"(d) In any action brought in a court of the United States or of a State, a foreign state, a political subdivision thereof, or an agency or instrumentality of a foreign state shall serve an answer or other responsive pleading to the complaint within sixty days after service has been made under this section.

"(e) No judgment by default shall be entered by a court of the United States or of a State against a foreign state, a political subdivision thereof, or an agency or instrumentality of a foreign state, unless the claimant establishes his claim or right to relief by evidence satisfactory to the court. A copy of any such default judgment shall be sent to the foreign state or political subdivision in the manner prescribed for service in this section

"§ 1609. Immunity from attachment and execution of property of a foreign state

"Subject to existing international agreements to which the United States is a party at the time of enactment of this Act the property in the United States of a foreign state shall be immune from attachment arrest and execution except as provided in sections 1610 and 1611 of this chapter.

"§ 1610. Exceptions to the immunity from attachment or execution

"(a) The property in the United States of a foreign state, as defined in section 1603(a) of this chapter, used for a commercial activity in the United States, shall not be immune from attachment in aid of execution, or from execution, upon a judgment entered by a court of the United States or of a State after the effective date of this Act, if—

"(1) the foreign state has waived its immunity from attachment in aid of execution or from execution either explicitly or by implication, notwithstanding any withdrawal of the waiver the foreign state may purport to effect except in accordance with the terms of the waiver, or

"(2) the property is or was used for the commercial activity upon which the claim is based, or

"(3) the execution relates to a judgment establishing rights in property which has been taken in violation of international law or which has been exchanged for property taken in violation of international law, or

"(4) the execution relates to a judgment establishing rights in property—

"(A) which is acquired by succession or gift, or

"(B) which is immovable and situated in the United States: *Provided,* That such property is not used for purposes of maintaining a diplomatic or consular mission or the residence of the Chief of such mission, or

"(5) the property consists of any contractual obligation or any proceeds from such a contractual obligation to indemnify or hold harmless the foreign state or its employees under a policy of automobile or other liability or casualty insurance covering the claim which merged into the judgment; or [7]

"(6) [7] the judgment is based on an order confirming an arbitral award rendered against the foreign State, provided that attachment in aid of execution, or execution, would not be inconsistent with any provision in the arbitral agreement.

"(b) In addition to subsection (a), any property in the United States of an agency or instrumentality of a foreign state engaged in commercial activity in the United States shall not be immune from attachment in aid of execution, or from execution, upon a judgment entered by a court of the United States or of a State after the effective date of this Act, if—

"(1) the agency or instrumentality has waived its immunity from attachment in aid execution or from execution either explicitly or implicitly, notwithstanding any withdrawal of the waiver the agency or instrumentality may purport to effect except in accordance with the terms of the waiver, or

"(2) the judgment relates to a claim for which the agency or instrumentality is not immune by virtue of section 1605(a) (2), (3), or (5) or 1605(b) of this chapter, regardless of whether the property is or was used for the activity upon which the claim is based.

"(c) No attachment or execution referred to in subsections (a) and (b) of this section shall be permitted until the court has ordered such attachment and execution after having determined that a reasonable period of time has elapsed following the entry of judgment and the giving of any notice required under section 1608(e) of this chapter.

"(d) The property of a foreign state, as defined in section 1603(a) of this chapter, used for a commercial activity in the United States, shall not be immune from attachment prior to the entry of judgment in any action brought in a court of the United States or of a State, or prior to the elapse of the period of time provided in subsection (c) of this section if—

"(1) the foreign state has explicitly waived its immunity from attachment prior to judgment, notwithstanding any withdrawal of the waiver the foreign state may purport to effect except in accordance with the terms of the waiver, and

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[7] Sec. 3 of Public Law 100–669 (102 Stat. 3969) ended paragraph (5) with "; or" and added a new paragraph (6).

"(2) the purpose of the attachment is to secure satisfaction of a judgment that has been or may ultimately be entered against the foreign state, and not to obtain jurisdiction.

"(e)[8] The vessels of a foreign State shall not be immune from arrest in rem, interlocutory sale, and execution in actions brought to foreclose a preferred mortgage as provided in section 1605(d).

"§ 1611. Certain types of property immune from execution

"(a) Notwithstanding the provisions of section 1610 of this chapter, the property of those organizations designated by the President as being entitled to enjoy the privileges, exemptions, and immunities provided by the International Organizations Immunities Act shall not be subject to attachment or any other judicial process impeding the disbursement of funds to, or on the order of, a foreign state as the result of an action brought in the courts of the United States or of the States.

"(b) Notwithstanding the provisions of section 1610 of this chapter, the property of a foreign state shall be immune from attachment and from the execution, if—

"(1) the property is that of a foreign central bank or monetary authority held for its own account, unless such bank or authority, or its parent foreign government, has explicitly waived its immunity from attachment in aid of execution, or from execution notwithstanding any withdrawal of the waiver which the bank, authority or government may purport to effect except in accordance with the terms of the waiver; or

"(2) the property is, or is intended to be, used in connection with a military activity and

"(A) is of a military character, or

"(B) is under the control of a military authority or defense agency."

(b) That the analysis of "PART IV.—JURISDICTION AND VENUE" of title 28, United States Code, is amended by inserting after—

"95. Customs Court.",

the following new item:

"97. Jurisdictional Immunities of Foreign States.".

Sec. 5. That section 1391 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(f) A civil action against a foreign state as defined in section 1603(a) of this title may be brought—

"(1) in any judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated;

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[8] Sec. 2 of Public Law 100-640 (102 Stat. 3333) added subsec. (e).

"(2) in any judicial district in which the vessel or cargo of a foreign state is situated, if the claim is asserted under section 1605(b) of this title;

"(3) in any judicial district in which the agency or instrumentality is licensed to do business or is doing business, if the action is brought against an agency or instrumentality of a foreign state as defined in section 1603(b) of this title; or

"(4) in the United States District Court for the District of Columbia if the action is brought against a foreign state or political subdivision thereof.".

Sec. 6. That section 1441 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) Any civil action brought in a State court against a foreign state as defined in section 1603(a) of this title may be removed by the foreign state to the district court of the United States for the district and division embracing the place where such action is pending. Upon removal the action shall be tried by the court without jury. Where removal is based upon this subsection, the time limitations of section 1446(b) of this chapter may be enlarged at any time for cause shown.".

Sec. 7. If any provision of this Act or the application thereof to any foreign state is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Sec. 8. This Act shall take effect ninety days after the date of its enactment.

h. Diplomatic Relations Act

Public Law 95-393 [H.R. 7819], 92 Stat. 808, approved September 30, 1978; as amended by Public Law 97-241 [Department of State Authorization Act, Fiscal Years 1982 and 1983; S. 1193], 96 Stat. 273 at 290, approved August 24, 1982; and by Public Law 98-164 [Department of State Authorization Act, Fiscal Years 1984 and 1985; H.R. 2915], 97 Stat. 1017 at 1042, approved November 22, 1983

AN ACT To complement the Vienna Convention on Diplomatic Relations.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1. This Act may be cited as the "Diplomatic Relations Act".

DEFINITIONS

Sec. 2.[1] As used in this Act—

(1) the term "members of a mission" means—

(A) [2] the head of a mission and those members of a mission who are members of the diplomatic staff or who, pursuant to law, are granted equivalent privileges and immunities,

(B) members of the administrative and technical staff of a mission, and

(C) members of the service staff of a mission,

as such terms are defined in Article 1 of the Vienna Convention;

(2) the term "family" means—

(A) the members of the family of a member of a mission described in paragraph (1)(A) who form part of his or her household if they are not nationals of the United States, and

(B) the members of the family of a member of a mission described in paragraph (1)(B) who form part of his or her household if they are not nationals or permanent residents of the United States.

within the meaning of Article 37 of the Vienna Convention;

(3) the term "mission" includes missions within the meaning of the Vienna convention and any missions representing foreign governments, individually or collectively, which are extended the same privileges and immunities, pursuant to law, as are enjoyed by missions under the Vienna Convention; and

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[1] 22 U.S.C. 254a.

[2] Sec. 203(b)(1) of Public Law 97-241 (96 Stat. 290) amended and restated subpar. (A). It formerly read as follows: "(A)" the head of a mission and members of the diplomatic staff of a mission,".

(4) the term "Vienna Convention" means the Vienna Convention on Diplomatic Relations of April 18, 1961 (T.I.A.S. numbered 7502; 23 U.S.T. 3227), entered into force with respect to the United States on December 13, 1972.

ESTABLISHMENT OF THE VIENNA CONVENTION AS THE UNITED STATES LAW ON DIPLOMATIC PRIVILEGES AND IMMUNITIES

Sec. 3. (a)(1) Sections 4063 through 4066 of the Revised Statutes of the United States (22 U.S.C. 252–254) are repealed.

(2) The section analysis of title XLVII of the Revised Statutes of the United States is amended by striking out the items relating to sections 4063 through 4066.

(b) [3] With respect to a nonparty to the Vienna Convention, the mission, the members of the mission, their families, and diplomatic couriers shall enjoy the privileges and immunities specified in the Vienna Convention.

AUTHORITY TO EXTEND MORE FAVORABLE OR LESS FAVORABLE TREATMENT

Sec. 4.[4] The President may, on the basis of reciprocity and under such terms and conditions as he may determine, specify privileges and immunities for the mission,[5] the members of the mission, their families, and the diplomatic couriers [6] which result in more favorable treatment or less favorable treatment than is provided under the Vienna Convention.

DISMISSAL OF ACTIONS AGAINST INDIVIDUALS ENTITLED TO IMMUNITY

Sec. 5.[7] Any action or proceeding brought against an individual who is entitled to immunity with respect to such action or proceeding under the Vienna Convention on Diplomatic Relations, under section 3(b) or 4 of this Act, or under any other laws extending diplomatic privileges and immunities, shall be dismissed. Such immunity may be established upon motion or suggestion by or on behalf of the individual, or as otherwise permitted by law or applicable rules of procedure.

REQUIREMENT FOR LIABILITY INSURANCE

Sec. 6.[8] (a) Each mission, members of the mission and their families, and individuals described in section 19 of the Convention on Privileges and Immunities of the United Nations of February 13, 1946, shall comply with any requirement imposed by the regulations promulgated by the Director of the Office of Foreign Missions in the Department of State [9] pursuant to subsection (b).

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[3] 22 U.S.C. 254c. Sec. 203(b)(2) of Public Law 97–241 (96 Stat. 291) amended and restated subsec. (b). It formerly read as follows: "(b) Members of the mission of a sending state which has not ratified the Vienna Convention, their families, and the diplomatic couriers of such state, shall enjoy the privileges and immunities specified in the Vienna Convention."

[4] 22 U.S.C. 254b. Executive Order 12101 (43 F.R. 54195, November 17, 1978) designated the Secretary of State to perform the functions specified in sec. 4.

[5] Reference to the mission was added by sec. 203(b)(3)(A) of Public Law 97–241 (96 Stat. 291).

[6] The words "of any sending state", which previously appeared at this point, were struck out by sec. 203(b)(3)(B) of Public Law 97–241 (96 Stat. 291).

[7] 22 U.S.C. 254d.

[8] 22 U.S.C. 254c.

(b) The Director of the Office of Foreign Missions shall, by regulation, establish liability insurance requirements which can reasonably be expected to afford adequate compensation to victims and which are [10] to be met by each mission, members of the mission and their families, and individuals described in section 19 of the Convention on Privileges and Immunities of the United Nations of February 13, 1946, relating to risks arising from the operation in the United States of any motor vehicle, vessel, or aircraft.

(c) The Director of the Office of Foreign Missions [11] shall take such steps as he may deem necessary to insure that each mission, members of the mission and their families, and individuals described in section 19 of the Convention on Privileges and Immunities of the United Nations of February 13, 1946, who operate motor vehicles, vessels, or aircraft in the United States comply with the requirements established pursuant to subsection (b).

Sec. 7. (a) That chapter 85 of title 28, United States Code, is amended by the addition of the following new section;

"§ 1364. Direct actions against insurers of members of diplomatic missions and their families

"(a) The district courts shall have original and exclusive jurisdiction, without regard to the amount in controversy, of any civil action commenced by any person against an insurer who by contract has insured an individual, who is a member of a mission within the meaning of section 2(3) of the Diplomatic Relations Act (22 U.S.C. 254a(3)) [12] or a member of the family of such a member of a mission, or an individual described in section 19 of the Convention on Privileges and Immunities of the United Nations of February 13, 1946, against liability for personal injury, death, or damage to property.

"(b) Any direct action brought against an insurer under subsection (a) shall be tried without a jury, but shall not be subject to the defense that the insured is immune from suit, that the insured is an indispensable party, or in the absence of fraud or collusion, that the insured has violated a term of the contract, unless the contract was cancelled before the claim arose."

(b) The chapter analysis of chapter 85 of title 28, United States Code, is amended by adding after the item relating to section 1363 the following new item:

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[9] Sec. 602(1) of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98-164, 97 Stat. 1042) substituted the reference to the Director of the Office of Foreign Missions in lieu of a reference to the President. Previously, Executive Order 12101 (43 F.R. 54195, November 17, 1978) had designated the Secretary of State to perform the functions specified in sec. 6.

[10] The words to this point in subsec. (b) were substituted in lieu of the words "The President shall by regulation, establish liability insurance requirements" by sec. 602(2) of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98-164, 97 Stat. 1042).

[11] Sec. 602(3) of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98-164, 97 Stat. 1042) substituted the reference to the Director of the Office of Foreign Missions in lieu of a reference to the President.

[12] Sec. 203(b)(4) of the Department of State Authorization Act, Fiscal Years 1982 and 1983 (Public Law 97-241, 96 Stat. 291) amended the parenthetical phrase. It previously read as follows: "(as defined in the Vienna Convention on Diplomatic Relations)".

"1364. Direct actions against insurers of members of diplomatic missions and their families."

CONFORMING AMENDMENTS TO TITLE 28

Sec. 8. (a)(1) Section 1351 of title 28, United States Code, is amended to read as follows:

"§ 1351. Consuls, vice consuls, and members of a diplomatic mission as defendant

"The district courts shall have original jurisdiction, exclusive of the courts of the States, of all civil actions and proceedings against—

"(1) consuls or vice consuls of foreign states; or

"(2) members of a mission or members of their families (as such terms are defined in section 2 of the Diplomatic Relations Act)."

(2) The chapter analysis of chapter 85 of such title 28 is amended by amending the item relating to section 1351 to read as follows:

"1351. Consuls, vice consuls, and members of a diplomatic mission as defendant.".

(b)(1) Section 1251(a) of such title 28 is amended to read as follows:

"(a) The Supreme Court shall have original and exclusive jurisdiction of all controversies between two or more States.".

(2) Section 1251(b)(1) of such title 28 is amended by striking out "brought by" and all that follows through "consuls or" and inserting in lieu thereof "to which ambassadors, other public ministers, consuls, or".

EFFECTIVE DATE

Sec. 9. This Act shall take effect at the end of the ninety-day period beginning on the date of its enactment.

i. Diplomatic Reciprocity

(1) Equivalency of Representation Between U.S. and Hostile Powers

Partial Text of Public Law 98-618 [H.R. 5399], 98 Stat. 3298, approved November 8, 1984

AN ACT To authorize appropriations for fiscal year 1985 fo intelligence and intelligence-related activities of the United States Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Intelligence Authorization Act for fiscal year 1985".

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POLICY TOWARD CERTAIN AGENTS OF FOREIGN GOVERNMENTS

Sec. 601. (a) It is the sense of the Congress that the numbers, status, privileges and immunities, travel, accommodations, and facilities within the United States of official representatives to the United States of any foreign government that engages in intelligence activities within the United States harmful to the national security of the United States should not exceed the respective numbers, status, privileges and immunities, travel accommodations, and facilities within such country of official representatives of the United States to such country.

(2) Soviet Mission to the United Nations

Partial Text of Public Law 99-569 [H.R. 4759], 100 Stat. 3190, approved October 27, 1986

AN ACT to authorize appropriations for fiscal year 1987 for intelligence and intelligence-related activities of the United States Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Intelligence Authorization Act for Fiscal Year 1987".

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SOVIET MISSION AT THE UNITED NATIONS

Sec. 702. (a)(1) It is the policy of the Congress that the number of nationals of the Soviet Union admitted to the United states to serve as members of the Soviet mission at the United Nations headquarters shall not substantially exceed the number of United States nationals who serve as members of the United States mission at the United Nations headquarters, unless the President determines that the admission to the United States of additional Soviet nationals to serve as members of the Soviet mission at the United Nations headquarters would be in the interest of the United States.

(2) Beginning six months after the date of enactment of this section, and every six months thereafter, the Secretary of State shall prepare and transmit to the Committee on Foreign Relations and the Select Committee on Intelligence of the Senate and to the Committee on Foreign Affairs and the Permanent Select Committee on Intelligence of the House of Representatives a report setting forth the number of Soviet nationals admitted during the preceding six-month period to the United States pursuant to a determination of the President under paragraph (1) and their duties with the Soviet mission at the United Nations headquarters.

(3) Nothing in this subsection may be construed as including any dependent or spouse who is not a member of a mission at the United Nations headquarters in the calculation of the number of members of a mission at the United Nations headquarters.

(b) It is the sense of the Congress that the Secretary of State and the Attorney General should, not later than six months after the date of enactment of this section, prepare and transmit to the Committee on Foreign Relations and the Select Committee on Intelligence of the Senate and to the Committee on Foreign Affairs and the Permanent Select Committee on Intelligence of the House of Representatives a report setting forth a plan for ensuring that the number of Soviet nationals described in paragraph (a)(1) does not exceed the limitation described in that paragraph.

(c) For purposes of this section—

(1) the term "members of the Soviet mission" and "members of the United States mission" are used within the meaning of the term "members of the mission", as defined by article 1(b) of the Vienna Convention on Diplomatic Relations, done April 18, 1961; and

(2) the term "mission at the United Nations headquarters" of a country includes all the missions of such country to the United Nations in New York City and includes missions in New York City to specialized agencies of the United Nations, as defined in article 57 of the charter of the United Nations.

(3) Soviet Employees on U.S. Diplomatic Premises

Partial Text of Public Law 99-93 [H.R. 2068], 99 Stat. 405, approved August 16, 1985

AN ACT To authorize appropriations for fiscal years 1986 and 1987 for the Department of State, the United States Information Agency, the Board for International Broadcasting, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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SEC. 136.[1] SOVIET EMPLOYEES AT UNITED STATES DIPLOMATIC AND CONSULAR MISSIONS IN THE SOVIET UNION.

(a) LIMITATION.—To the maximum extent practicable, citizens of the Soviet Union shall not be employed as foreign national employees at United States diplomatic or consular missions in the Soviet Union after September 30, 1986.

(b) REPORT.—Should the President determine that the implementation of subsection (a) poses undue practical or administrative difficulties, he is requested to submit a report to the Congress describing the number and type of Soviet foreign national employees he wishes to retain at or in proximity to United States diplomatic and consular posts in the Soviet Union, the anticipated duration of their continued employment, the reasons for their continued employment, and the risks associated with the retention of these employees.

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[1] 22 U.S.C. 3943 note.

8. Child Health Revolution

Public Law 98-198 [S.J. Res. 111], 97 Stat. 1355, approved December 1, 1983

JOINT RESOLUTION Expressing the sense of the Congress with respect to international efforts to further a revolution in child health.

Whereas the report entitled "State of the World's Children, 1982-83" of the United Nations Children's Fund (hereafter in this joint resolution referred to as "UNICEF") offers unprecedented hope for a "revolution in child health" which could save the lives of up to twenty thousand of the forty thousand children who perish daily around the world from malnutrition and disease;

Whereas the techniques involved in this health revolution including oral rehydration home treatment, low-cost vaccines which do not require refrigeration, promotion of breast-feeding, and use of child growth charts to detect malnutrition, are estimated to cost only a few dollars per child;

Whereas this UNICEF report and the activities of UNICEF have been widely acclaimed by the Secretary General of the United Nations and the heads of the governments of such countries as the United Kingdom, France, Sweden, India, and Pakistan; and

Whereas the President of the United States on April 18, 1983, has issued a statement endorsing this health revolution for children and calling on the cooperation of United States Government agencies with international organizations and agencies associated in this effort: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the sense of the Congress that—

(1) the techniques articulated by UNICEF in its report entitled "The State of the World's Children, 1982-1983" represent an unprecedented low-cost opportunity to significantly reduce child mortality and morbidity throughout the world, and have the full support and encouragement of the Congress at a time of economic difficulty and constriction for all countries;

(2) the President be commended for taking steps to promote, encourage, and undertake activities to further the objectives of the child health revolution and for directing all appropriate United States Government agencies, including the Department of State, the Agency for International Development, and the Department of Health and Human Services to support and cooperate with UNICEF, the World Health Organization, the United Nations Development Program, and other international financial and assistance agencies participating in fostering this child health revolution; and

(3) other public and private organizations involved in health, education, finance, labor, communications, and humanitarian

assistance should cooperate with and support the efforts of the United States to further the objectives of the child health revolution.

9. International Child Abduction Remedies Act

Public Law 100–300 [H.R. 3971], 102 Stat. 437, approved April 29, 1988

AN ACT To establish procedures to implement the Convention on the Civil Aspects of International Child Abduction, done at The Hague on October 25, 1980, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "International Child Abduction Remedies Act".

SEC. 2. FINDINGS AND DECLARATIONS.

(a) FINDINGS.—The Congress makes the following findings:

(1) The international abduction or wrongful retention of children is harmful to their well-being.

(2) Persons should not be permitted to obtain custody of children by virtue of their wrongful removal or retention.

(3) International abductions and retentions of children are increasing, and only concerted cooperation pursuant to an international agreement can effectively combat this problem.

(4) The Convention on the Civil Aspects of International Child Abduction, done at The Hague on October 25, 1980, establishes legal rights and procedures for the prompt return of children who have been wrongfully removed or retained, as well as for securing the exercise of visitation rights. Children who are wrongfully removed or retained within the meaning of the Convention are to be promptly returned unless one of narrow exceptions set forth in the Convention applies. The Convention provides a sound treaty framework to help resolve the problem of international abduction and retention of children and will deter such wrongful removals and retentions.

(b) DECLARATIONS.—The Congress makes the following declarations:

(1) It is the purpose of this Act to establish procedures for the implementation of the Convention in the United States.

(2) The provisions of this Act are in addition to and not in lieu of the provisions of the Convention.

(3) In enacting this Act the Congress recognizes—

(A) the international character of the Convention; and

(B) the need for uniform international interpretation of the Convention.

(4) The Convention and this Act empower courts in the United States to determine only rights under the Convention and not the merits of any underlying child custody claims.

SEC. 3. DEFINITIONS.

For the purpose of this Act—

(1) the term "applicant" means any person who, pursuant to the Convention, files an application with the United States Central Authority or a Central Authority of any other party to the Convention for the return of a child alleged to have been wrongfully removed or retained or for arrangements for organizing or securing the effective exercise of rights of access pursuant to the Convention;

(2) the term "Convention" means the Convention on the Civil Aspects of International Child Abduction, done at The Hague on October 25, 1980;

(3) the term "Parent Locator Service" means the service established by the Secretary of Health and Human Services under section 453 of the Social Security Act (42 U.S.C. 653);

(4) the term "petitioner" means any person who, in accordance with this Act, files a petition in court seeking relief under the Convention;

(5) The term "person" includes any individual, institution, or other legal entity or body;

(6) the term "respondent" means any person against whose interests a petition is filed in court, in accordance with this Act, which seeks relief under the Convention;

(7) the term "rights of access" means visitation rights;

(8) the term "State" means any of the several States, the District of Columbia, and any commonwealth, territory, or possession of the United States; and

(9) the term "United States Central Authority" means the agency of the Federal Government designated by the President under section 7(a).

SEC. 4. JUDICIAL REMEDIES.

(a) JURISDICTION OF THE COURTS.—The courts of the States and the United States district courts shall have concurrent original jurisdiction of actions arising under the Convention.

(b) PETITIONS.—Any person seeking to initiate judicial proceedings under the Convention for the return of a child or for arrangements for organizing or securing the effective exercise of rights of access to a child may do so by commencing a civil action by filing a petition for the relief sought in any court which has jurisdiction in the place where the child is located at the time the petition is filed.

(c) NOTICE.—Notice of an action brought under subsection (b) shall be given in accordance with the applicable law governing notice in interstate child custody proceedings.

(d) DETERMINATION OF CASE.—The court in which an action is brought under subsection (b) shall decide the case in accordance with the Convention.

(e) BURDENS OF PROOF.—(1) A petitioner in an action brought under subsection (b) shall establish by a preponderance of the evidence—

(A) in the case of an action for the return of a child, that the child has been wrongfully removed or retained within the meaning of the Convention; and

(B) in the case of an action for arrangements for organizing or securing the effective exercise of rights of access, that the petitioner has such rights.

(2) In the case of an action for the return of a child, a respondent who opposes the return of the child has the burden of establishing—

(A) by clear and convincing evidence that one of the exceptions set forth in article 13b or 20 of the Convention applies; and

(B) by a preponderance of the evidence that any other exception set forth in article 12 or 13 of the Convention applies.

(f) APPLICATION OF THE CONVENTION.—For purposes of any action brought under this Act—

(1) the term "authorities", as used in article 15 of the Convention to refer to the authorities of the state of the habitual residence of a child, includes courts and appropriate government agencies;

(2) the terms "wrongful removal or retention" and "wrongfully removed or retained", as used in the Convention, include a removal or retention of a child before the entry of a custody order regarding that child; and

(3) the term "commencement of proceedings", as used in article 12 of the Convention, means, with respect to the return of a child located in the United States, the filing of a petition in accordance with subsection (b) of this section.

(g) FULL FAITH AND CREDIT.—Full faith and credit shall be accorded by the courts of the States and the courts of the United States to the judgment of any other such court ordering or denying the return of a child, pursuant to the Convention, in an action brought under this Act.

(h) REMEDIES UNDER THE CONVENTION NOT EXCLUSIVE.—The remedies established by the Convention and this Act shall be in addition to remedies available under other laws or international agreements.

SEC. 5. PROVISIONAL REMEDIES.

(a) AUTHORITY OF COURTS.—In furtherance of the objectives of article 7(b) and other provisions of the Convention, and subject to the provisions of subsection (b) of this section, any court exercising jurisdiction of an action brought under section 4(b) of this Act may take or cause to be taken measures under Federal or State law, as appropriate, to protect the well-being of the child involved or to prevent the child's further removal or concealment before the final disposition of the petition.

(b) LIMITATION ON AUTHORITY.—No court exercising jurisdiction of an action brought under section 4(b) may, under subsection (a) of this section, order a child removed from a person having physical control of the child unless the applicable requirements of State law are satisfied.

SEC. 6. ADMISSIBILITY OF DOCUMENTS.

With respect to any application to the United States Central Authority, or any petition to a court under section 4, which seeks relief under the Convention, or any other documents or information included with such application or petition or provided after such submission which relates to the application or petition, as the case may be, no authentication of such application, petition, document, or information shall be required in order for the application, petition, document, or information to be admissible in court.

SEC. 7. UNITED STATES CENTRAL AUTHORITY.

(a) Designation.—The President shall designate a Federal agency to serve as the Central Authority for the United States under the Convention.

(b) Functions.—The functions of the United States Central Authority are those ascribed to the Central Authority by the Convention and this Act.

(c) Regulatory Authority.—The United States Central Authority is authorized to issue such regulations as may be necessary to carry out its function under the Convention and this Act.

(d) Obtaining Information From Parent Locator Service.—The United States Central Authority may, to the extent authorized by the Social Security Act, obtain information from the Parent Locator Service.

SEC. 8. COSTS AND FEES.

(a) Administrative Costs.—No department, agency, or instrumentality of the Federal Government or of any State or local government may impose on an applicant any fee in relation to the administrative processing of applications submitted under the Convention.

(b) Costs Incurred in Civil Actions.—(1) Petitioners may be required to bear the costs of legal counsel or advisors, court costs incurred in connection with their petitions, and travel costs for the return of the child involved and any accompanying persons, except as provided in paragraphs (2) and (3).

(2) Subject to paragraph (3), legal fees or court costs incurred in connection with an action brought under section 4 shall be borne by the petitioner unless they are covered by payments from Federal, State, or local legal assistance or other programs.

(3) Any court ordering the return of a child pursuant to an action brought under section 4 shall order the respondent to pay necessary expenses incurred by or on behalf of the petitioner, including court costs, legal fees, foster home or other care during the course of proceedings in the action, and transportation costs related to the return of the child, unless the respondent establishes that such order would be clearly inappropriate.

SEC. 9. COLLECTION, MAINTENANCE, AND DISSEMINATION OF INFORMATION.

(a) In General.—In performing its functions under the Convention, the United States Central Authority may, under such conditions as the Central Authority prescribes by regulation, but subject to subsection (c), receive from or transmit to any department agency, or instrumentality of the Federal Government or of any State or foreign government, and receive from or transmit to any applicant, petitioner, or respondent, information necessary to locate a child or for the purpose of otherwise implementing the Convention with respect to a child, except that the United States Central Authority—

(1) may receive such information from a Federal or State department, agency, or instrumentality only pursuant to applicable Federal and State statues; and

(2) may transmit any information received under this subsection notwithstanding any provision of law other than this Act.

(b) REQUESTS FOR INFORMATION.—Requests for information under this section shall be submitted in such manner and form as the United States Central Authority may prescribe by regulation and shall be accompanied or supported by such documents as the United States Central Authority may require.

(c) RESPONSIBILITY OF GOVERNMENT ENTITIES.—Whenever any department, agency, or instrumentality of the United States or of any State receives a request from the United States Central Authority for information authorized to be provided to such Central Authority under subsection (a), the head of such department, agency, or instrumentality shall promptly cause a search to be made of the files and records maintained by such department, agency, or instrumentality in order to determine whether the information requested is contained in any such files or records. If such search discloses the information requested, the head of such department, agency, or instrumentality shall immediately transmit such information to the United States Central Authority, except that any such information the disclosure of which—

(1) would adversely affect the national security interests of the United States or the law enforcement interests of the United States or of any State; or

(2) would be prohibited by section 9 of title 13, United States Code;

shall not be transmitted to the Central Authority. The head of such department, agency, or instrumentality shall, immediately upon completion of the requested search, notify the Central Authority of the results of the search, and whether an exception set forth in paragraph (1) or (2) applies. In the event that the United States Central Authority receives information and the appropriate Federal or State department, agency, or instrumentality thereafter notifies the Central Authority that an exception set forth in paragraph (1) or (2) applies to that information, the Central Authority may not disclose that information under subsection (a).

(d) INFORMATION AVAILABLE FROM PARENT LOCATOR SERVICE.—To the extent that information which the United States Central Authority is authorized to obtain under the provisions of subsection (c) can be obtained through the Parent Locator Service, the United States Central Authority shall first seek to obtain such information from the Parent Locator Service, before requesting such information directly under the provisions of subsection (c) of this section.

(e) RECORDKEEPING.—The United States Central Authority shall maintain appropriate records concerning its activities and the disposition of cases brought to its attention.

SEC. 10. INTERAGENCY COORDINATING GROUP.

The Secretary of State, the Secretary of Health and Human Services, and the Attorney General shall designate Federal employees and may, from time to time, designate private citizens to serve on an interagency coordinating group to monitor the operation of the Convention and to provide advice on its implementation tot he United States Central Authority and other Federal agencies. This group shall meet from time to time at the request of the United

States Central Authority. The agency in which the United States Central Authority is located is authorized to reimburse such private citizens for travel and other expenses incurred in participating at meetings of the interagency coordinating group at rates not to exceed those authorized under subchapter I of chapter 57 of title 5, United States Code, for employees of agencies.

SEC. 11. AGREEMENT FOR USE OF PARENT LOCATOR SERVICE IN DETERMINING WHEREABOUTS OF PARENT OR CHILD.

Section 463 of the Social Security Act (42 U.S.C. 663) is amended—

(1) by striking "under this section" in subsection (b) and inserting "under subsection (a)";

(2) by striking "under this section" where it first appears in subsection (c) and inserting "under subsection (a), (b), or (e)"; and

(3) by adding at the end the following new subsection:

"(e) The Secretary shall enter into an agreement with the Central Authority designated by the President in accordance with section 7 of the International Child Abduction Remedies Act, under which the services of the Parent Locator Service established under section 458 shall be made available to such Central Authority upon its request for the purpose of locating any parent or child on behalf of an applicant to such Central Authority within the meaning of section 3(1) of that Act. The Parent Locator Service shall charge no fees for services requested pursuant to this subsection.".

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the purpose of the Convention and this Act.

10. Relating to the Implementation of the Convention on the Civil Aspects of International Child Abduction

Executive Order 12648, August 11, 1988, 53 F.R. 30637

The United States of America deposited its instrument of ratification of the Hague Convention on the Civil Aspects of International Child Abduction ("Convention') on April 29, 1988. The Convention entered into force for the United States on July 1, 1988. Article 6 of the Convention imposes upon Contracting States an obligation to designate a "Central Authority" for the purpose of discharging certain specified functions.

In order that the Government of the United States of America may give full and complete effect to the Convention, and pursuant to section 7 of the International Child Abduction Remedies Act, Public Law 100–300 (1988), it is expedient and necessary that I designate a Central Authority within the Executive branch of said Government:

NOW THEREFORE, by virtue of the authority vested in me as President by the Constitution and the laws of the United States, including section 301 of Title 3 of the United States Code and section 7 of the International Child Abduction Remedies Act, it is ordered as follows:

Section 1. *Designation of Central Authority.* The Department of State is hereby designated as the Central Authority of the United States for purposes of the Hague Convention on the Civil Aspects of International Child Abduction. The Secretary of State is hereby authorized and empowered, in accordance with such regulations as he may prescribe, to perform all lawful acts that may be necessary and proper in order to execute the functions of the Central Authority in a timely and efficient manner.

USE OF THE INDEX

The index is organized by subject matter only. Each subject entry also includes the legal citation indicating the document to which it refers. These legal citations were not chosen on the basis of standard legal citation form, but rather for the amount of information they provided and for convenience in producing a computer-printed index. A list of abbreviations used in the legal citation section of the index appears below:

Art—Article
EO—Executive Order
fn—Footnote
FR—Federal Register
H Con Res—House Concurrent Resolution
HR—House Bill
H Res—House Resolution
PL—Public Law
S—Senate Bill
S Con Res—Senate Concurrent Resolution
S Res—Senate Resolution
Sec—Section
Stat—United States Statutes at Large
USC—United States Code

Page references, wherever possible, indicate the exact page on which mention of the entry is made. Entries of a more general nature that refer to a large section or to an entire document are listed with the page on which the reference begins.

GLOSSARY OF TERMS USED IN THE INDEX

ABM	Anti-Ballistic Missile
ACDA	Arms Control and Disarmament Agency
ADB	Asian Development Bank
AFDB	African Development Bank
AFDF	African Development Fund
AID	Agency for International Development
EEC	European Economic Community
FAO	Food and Agriculture Organization
FCC	Federal Communications Commission
GAO	General Accounting Office
IADB	Inter-American Development Bank
IAEA	International Atomic Energy Agency
ICA	International Communication Agency
IDA	International Development Association
IDCA	International Development Cooperation Agency
IFAD	Internationl Fund for Agricultural Development
IFC	International Finance Corporation
IFIs	International Financial Institutions
IMF	International Monetary Fund
MDBs	Multilateral Development Banks
MIA	Missing-in-Action
NATO	North Atlantic Treaty Organization
OAS	Organization of American States
OPIC	Overseas Private Investment Corporation
POW	Prisoners-of-War
SALT	Strategic Arms Limitation Talk
SDAF	Special Defense Acquisition Fund
SEATO	Southeast Asia Treaty Organization
U.N.	United Nations
UNCTAD	United Nations Conference on Trade and Development
UNDP	United Nations Development Program
UNESCO	United Nations Educational, Scientific, and Cultural Organization
USIA	United States Information Agency.

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